

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 IN RE: NATIONAL)
5 PRESCRIPTION) MDL No. 2804
6 OPIATE LITIGATION)
7 _____) Case No.
8) 1:17-MD-2804
9)
10 THIS DOCUMENT RELATES) Hon. Dan A.
11 TO ALL CASES) Polster
12)

13 FRIDAY, JULY 13, 2018

14 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
15 CONFIDENTIALITY REVIEW

16 - - -

17 Videotaped deposition of Shirlene
18 Justus, held at the offices of BakerHostetler
19 LLP, 200 South Civic Center Drive, Columbus,
20 Ohio, commencing at 9:05 a.m., on the above
21 date, before Carrie A. Campbell, Registered
22 Diplomate Reporter and Certified Realtime
23 Reporter.

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17 Golkow Litigation Services
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1 VIDEOGRAPHER: We are now on
2 the record.

3 My name is Dan Lawlor. I'm a
4 videographer with Golkow Litigation
5 Services.

6 Today's date is July 13, 2018,
7 and the time is 9:05 a.m.

8 This video deposition is being
9 held in Columbus, Ohio, in the matter
10 of National Prescription Opiate
11 Litigation MDL Number 2804. The
12 deponent is Shirlene Justus.

13 Counsel, please identify
14 yourselves beginning with the
15 plaintiffs.

16 MR. FULLER: Mike Fuller on
17 behalf of the plaintiff.

18 MS. QUEZON: Amy Quezon on
19 behalf of plaintiff.

20 MR. WOLFE: Evan Wolfe,
21 plaintiffs.

22 MR. SHKOLNIK: Hunter Shkolnik
23 on behalf of plaintiffs.

24 MR. ELKINS: AJ Elkins on
25 behalf of plaintiffs.

1 MR. SCHACK: Lou Schack from
2 Reed Smith on behalf of
3 AmerisourceBergen Drug Corporation.

4 MR. HARRIS: Alex Harris,
5 Bartlit Beck, on behalf of Walgreens.

6 MR. FARRELL: Paul Farrell,
7 Junior, on behalf of plaintiffs.

8 MR. CLARK: Miles Clark of
9 Zuckerman Spaeder on behalf of CVS
10 Indiana, LLC, and CVS RX Services,
11 Inc.

12 MR. AUBEL: Bill Aubel from
13 Jackson Kelly on behalf of
14 Miami-Luken.

15 MR. RICARD: Paul Ricard,
16 Prescription Supply, Inc.

17 MR. CARTER: Ed Carter from
18 Jones Day for Walmart.

19 MR. PYSER: Steven Pyser,
20 Williams & Connolly, on behalf of
21 Cardinal Health, Inc.

22 MS. ANDERSON: Caitlin
23 Anderson, in-house counsel at Cardinal
24 Health.

25 MS. PETERSEN: Miranda

1 Petersen, Williams Connolly, on behalf
2 of Cardinal Health, Inc.

3 MS. WICHT: Jennifer Wicht from
4 Williams & Connolly on behalf of
5 Cardinal Health.

6 VIDEOGRAPHER: And counsel on
7 the phone?

8 MR. LAVELLE: John Lavelle from
9 Morgan Lewis on behalf of Rite Aid.

10 MS. GARDNER: Allison Gardner
11 from Arnold & Porter, counsel for
12 Endo.

13 MR. MONTMINY: Brandan
14 Montminy, Locke Lord, counsel for the
15 Henry Schein defendants.

16 MS. HOLLY: Pam Holly, Morgan
17 Lewis, counsel for Teva
18 Pharmaceuticals, Cephalon and various
19 pharmacies.

20 VIDEOGRAPHER: The court
21 reporter today is Carrie Campbell, and
22 she will now swear in the witness.

23
24 SHIRLENE JUSTUS,
25 of lawful age, having been first duly sworn

1 to tell the truth, the whole truth and
2 nothing but the truth, deposes and says on
3 behalf of the Plaintiffs, as follows:

4

5 DIRECT EXAMINATION

6 QUESTIONS BY MR. FULLER:

7 Q. Ma'am, please introduce
8 yourself to the jury.

9 A. I'm Shirlene Justus.

10 Q. Ms. Justus, where do you
11 currently work?

12 A. I work for Cardinal Health.

13 Q. How long have you worked for
14 Cardinal Health?

15 A. 15 years.

16 Q. And what is your current
17 position at Cardinal Health?

18 A. I am a senior consultant for
19 strategic planning and execution.

20 Q. And how long have you been in
21 that role?

22 A. Almost four years.

23 Q. And what did you do prior to
24 being a senior consultant for strategic
25 planning and execution?

1 A. Prior to that I was in -- a
2 member of the anti-diversion department.

3 Q. And is that what you guys call
4 it, the anti-diversion department?

5 A. Yes.

6 Q. Okay. And did you have a
7 specific title?

8 A. Yes. Prior to that, I was a
9 senior analyst for quality and regulatory.

10 Q. And how long did you hold that
11 position?

12 A. Approximately two years.

13 Q. So if we're going back four
14 years from now we're in, what, 2014? So '12
15 to '14 time frame?

16 A. Uh-huh, that's correct.

17 Q. And how about prior to that?

18 A. I was also a member of the
19 anti-diversion department, but I was in new
20 account setup.

21 Q. And how long were you a member
22 or in the position of new account setup?

23 A. 18 months to two years, so it
24 was 2010.

25 Q. How about prior to becoming a

1 new -- well, what was the title? New account
2 setup --

3 A. It was a specialist.

4 Q. -- person?

5 A. Account specialist, uh-huh.

6 Q. How about prior to that?

7 A. I was in admin.

8 Q. And that was your title?

9 A. Senior administrative
10 assistant.

11 Q. How long did you hold that
12 spot?

13 A. Almost seven years.

14 Q. And does that take us back to
15 the time when you started with Cardinal?

16 A. Yes.

17 Q. Okay. So let's go through
18 these just real briefly. Let's start with
19 your senior admin assistant.

20 What is a senior admin
21 assistant?

22 A. It's an administrative
23 assistant for...

24 Q. Let me ask it differently.

25 What were your duties? What

1 did you do on a daily basis?

2 A. On a daily basis I could make
3 travel arrangements, audit expense reports,
4 handle any kind of training arrangements to
5 be made for teams, for the training teams
6 from the different departments that I worked
7 in.

8 Q. And how about new account
9 setup? What would that -- what did you do
10 there?

11 Now, let me stop you for a
12 second. From the time you began up until
13 2010, you were not a member of the
14 anti-diversion department, were you?

15 A. Not for that entire time, no.

16 Q. For any of that time?

17 A. Some, yes.

18 Q. Okay. Where do we fit in the
19 timeline when you became a member of that
20 department?

21 A. I was an administrative
22 assistant starting in -- at the end of 2007.

23 Q. For that department?

24 A. Yes.

25 Q. Now, other than being in a

1 different department, did your duties and
2 responsibilities change or were they
3 basically the same?

4 A. They were basically the same.

5 Q. Now tell me, what does a new
6 account specialist do?

7 A. We collected data, any kind of
8 due diligence, an account that was brought to
9 us to see if they could open an account to --
10 at Cardinal Health to purchase controlled
11 substances.

12 Q. So as a new account specialist,
13 you would work with pharmacies and drugstores
14 who wanted to open an account with Cardinal?

15 A. We did not direct line to any
16 of the pharmacies or customers.

17 Q. Let me ask it differently.

18 A. Uh-huh.

19 Q. As a new account specialist,
20 you would review drugstores and pharmacies to
21 determine whether they'd be approved to do
22 business with Cardinal?

23 A. Yes, that's correct.

24 Q. Okay. And how about as a
25 senior administrative assistant? What was

1 your job role there? I'm sorry, not senior
2 admin -- senior analyst for quality and
3 regulatory.

4 A. So the difference is is that we
5 would actually review the analytic side, the
6 history purchase data and the accounts and
7 the way they purchased and their patterns.

8 Q. We got a lot to talk about
9 today then.

10 And that was for about two
11 years; is that right?

12 A. That's correct.

13 Q. And was that considered a
14 promotion, from new account specialist, or a
15 lateral move?

16 A. It's a promotion.

17 Q. Okay.

18 A. Uh-huh.

19 Q. So tell me a little bit more.

20 You reviewed analytics or reviewed
21 information on the analytic side. I'm
22 assuming these are for already -- customers
23 already pharmacies and drugstores that
24 you're -- that Cardinal is delivering to; is
25 that right?

1 A. That would be correct.

2 Q. And what was your particular
3 role in that system? What type of analytics
4 did you review, or did you assist others in
5 reviewing? Did you make final determinations
6 as to whether something was going to be
7 delivered or not?

8 Tell us what you did on a
9 regular basis.

10 MS. WICHT: Object to the form
11 of the question.

12 You can still go ahead and
13 answer when I object to the form.
14 It's generally for the record. You
15 can go ahead and answer if you
16 understand.

17 MR. FULLER: She means I asked
18 a bad question.

19 MS. WICHT: Exactly.

20 MR. FULLER: And I'm from
21 Mississippi, so there's going to be a
22 lot of them. But I do have all my
23 teeth.

24 THE WITNESS: So on a daily
25 basis it would be more of if there was

1 a threshold event, we have a case
2 management system that we would have
3 tools that were provided for us so
4 that we could watch the different
5 patterns of their purchase history.

6 QUESTIONS BY MR. FULLER:

7 Q. Now, you say "a case management
8 system."

9 A. Uh-huh, that's correct.

10 Q. What is that?

11 A. Well, it's not the ordering
12 platform. So any customer can place an
13 order.

14 Q. Okay.

15 A. Okay? So once that comes into
16 the system, if it was over threshold, right,
17 then there would be a case created. And it
18 would be sent to a system so that -- it's
19 case management work -- so that we would be
20 identified that there was a case that had
21 gone over threshold, and then we could
22 actually analyze if that was -- what that was
23 or why.

24 Q. And is that whole process
25 automated?

1 A. Yes.

2 Q. Okay.

3 A. It's systematic.

4 Q. Systematic sounds better than
5 automated.

6 MS. WICHT: Just to be clear,
7 Mike, you're asking in the '12 to '14
8 when she was in the department, right?
9 All of these are directed at that?

10 MR. FULLER: Yes, ma'am.

11 MS. WICHT: Okay. Thank you.

12 QUESTIONS BY MR. FULLER:

13 Q. Now, so you would get this --
14 you mentioned threshold event. Somehow,
15 computer-wise, this information comes to you,
16 you and others in your department, I guess;
17 is that right?

18 A. That's correct.

19 Q. And what is it that you do with
20 this information?

21 A. Multiple things. So, first of
22 all, you look at it to see, you know, what
23 drug family, what threshold event happened.
24 We have many tools that we use, or that we
25 used at the time, and those tools are created

1 from statisticians on the team that would
2 create dashboards for us so that we could
3 actually look at and evaluate what was
4 happening for which customer.

5 Q. Now, you mentioned drug
6 families.

7 What are drug families?

8 A. Drug families are the way
9 controlled substances are categorized --

10 Q. Yes, ma'am.

11 A. -- by the DEA, by the active
12 ingredient in the drug.

13 Q. So give us some examples of
14 drug families that you would be looking at.

15 A. Actually, there's 116 of them.

16 Q. Well, just give us two or
17 three.

18 A. So the example would be I could
19 say alprazolam. Okay. So that would be any
20 and all strengths of what that drug family
21 would have. So all the different products
22 that Cardinal Health carries, it would have
23 the same exact active ingredient that
24 alprazolam carries that would be in a
25 specific drug family.

1 Q. So would OxyContin be in its
2 own drug family?

3 A. It does have its own, uh-huh.

4 Q. And how about like hydrocodone?

5 A. Yes.

6 Q. Okay. Then in '14 you moved on
7 over to being a senior consultant for
8 strategic planning and execution?

9 A. That's correct.

10 Q. Now, does that take you out of
11 the anti-diversion department?

12 A. Yes. Yes.

13 Q. Okay. So, and correct me if
14 I'm wrong, you joined this anti-diversion
15 department in approximately '07?

16 A. Correct.

17 Q. You were there through sometime
18 in 2014?

19 A. Correct.

20 Q. We talked about your role as
21 the new account specialist, and then as a
22 senior analyst for quality and regulatory you
23 were involved in analyzing threshold events
24 to determine whether shipments would be made
25 or not, and then also report it to the DEA,

1 I'd assume?

2 A. Well, I want to clarify that
3 the only analytics or that anything that we
4 would look at were only the ones that
5 actually had a threshold event, not all.

6 Q. Okay. So as a senior analyst
7 for quality and regulatory, you would analyze
8 threshold events, correct?

9 A. Yes.

10 Q. To determine whether they --
11 there was some legitimate explanation, do the
12 due diligence, or whether they needed to be
13 halted or suspicious and need to be reported,
14 correct?

15 A. Correct.

16 MS. WICHT: Object to the form
17 of the question.

18 THE WITNESS: That's correct.

19 QUESTIONS BY MR. FULLER:

20 Q. And then in 2014 you come out
21 of that department?

22 A. Yes.

23 Q. Was that considered a promotion
24 or a lateral move?

25 A. It was a promotion.

1 Q. Okay. And you're now a senior
2 consultant for strategic planning and
3 execution?

4 A. That's correct.

5 Q. Can you tell us what that --
6 what you do now?

7 A. Yes, I can.

8 I am actually on a software --
9 Cardinal Health is going through a software
10 change with their ordering platforms, so in
11 instead of having different ordering
12 platforms and systems that are different
13 across different business units, we are all
14 coming onto one platform.

15 So in this role, gathering
16 business requirements for what that software
17 will need to do, how it will need to react,
18 what it -- how it needs to handle orders for
19 the future, basically, is what it's for.

20 Q. So basically you -- and correct
21 me if I'm wrong, so you have a bunch of
22 different departments within Cardinal, or
23 segments, and you're trying to put everybody
24 on the same page as far as an ordering
25 platform goes?

1 A. Correct.

2 Q. Okay.

3 A. Correct.

4 Q. Everybody may have little bit
5 of different needs, and you're trying to
6 design or facilitate a platform that
7 satisfies everybody's needs?

8 A. That's correct.

9 Q. Got it.

10 Now, you've been in that role
11 four years?

12 A. Yes.

13 Q. Has it taken that long to
14 create this platform, or is there other stuff
15 that you've been doing?

16 A. No, it has taken that long, and
17 it's -- will continue.

18 Q. Really?

19 A. Yes, it will. It's at least a
20 seven-year project.

21 Q. Wow.

22 A. Uh-huh.

23 Q. So as part of the diversion
24 department, you've already told us that you
25 guys receive the threshold events, correct?

1 A. It's the anti-diversion.

2 Q. Anti-diversion. What did I
3 say? Diversion department.

4 A. Sorry.

5 Q. I'm going to hold my tongue on
6 that one.

7 A. Yeah.

8 Q. As part of the anti-diversion
9 department, you guys receive the threshold
10 events when they occur, correct?

11 A. That's correct.

12 Q. Now, is that for -- and you're
13 based here in Dublin?

14 A. Correct.

15 Q. Okay. So is that for the
16 entire company?

17 A. Yes.

18 Q. Okay. So all -- I don't know.
19 There's 20-some-odd different distribution
20 centers; is that right?

21 A. That's correct.

22 Q. And each of them have their own
23 DEA registrant number; is that right?

24 A. That's correct.

25 Q. And you would receive all

1 threshold events for all of those facilities,
2 whether it's 27 or whatever number it is?

3 A. That's correct.

4 Q. Okay. So they're all centrally
5 processed within this anti-diversion
6 department?

7 A. Yes.

8 Q. Now, when you joined the
9 anti-diversion department, had it just been
10 created or was it in existence prior to?

11 A. The actual system for the case
12 management?

13 Q. No, the department, the
14 anti-diversion department, that you became a
15 part of in 2007.

16 A. I honestly -- I don't know. I
17 wasn't part of that. I wasn't -- it was -- I
18 hadn't worked in any of that.

19 Q. They were on the other side of
20 the building?

21 A. Yes, I was, so I don't know
22 what was there.

23 Q. So you don't know when this
24 anti-diversion department was actually set up
25 or created?

1 A. No.

2 Q. Let me ask this. A little bit
3 of an odd question. But how did you go from
4 where you -- what department were you in, let
5 me ask it that way, before anti-diversion?

6 A. So I was in a department that
7 was for --

8 Q. You were in the diversion
9 department, right? I'm kidding.

10 A. No, I was not.
11 I was in the business
12 transformation office, is what it was
13 considered. So there again, it was where
14 Cardinal was trying to bring all of their
15 different business units together to make it
16 kind of a one Cardinal Health so that it
17 would be more uniform and consistent across
18 all areas of business.

19 Q. So more of a corporate
20 application across all units?

21 A. Correct.

22 Q. Got it.

23 And how did you -- did you get
24 recruited to go to this anti-diversion
25 department? Did somebody post it? How did

1 that happen?

2 A. The senior vice president was
3 who I had reported to before, and when he was
4 assigned or asked or recruited or whatever
5 term that was to build, you know, a process,
6 or a different process, that Cardinal needed,
7 he asked at that point in time that I would
8 follow and join him as the admin for that
9 role.

10 Q. And who was that senior vice
11 president?

12 A. Mark Hartman.

13 Q. Is Mr. Hartman still there?

14 A. At Cardinal Health? No.

15 Q. Do you know when he left,
16 approximately?

17 A. 2010.

18 Q. And do you know where he is
19 now?

20 A. Yes, I do. He's actually
21 consulting for himself. He has his own
22 company.

23 Q. Oh, just outside consulting?

24 A. Yes.

25 Q. Do you-all still keep in touch?

1 A. We do.

2 Q. I mean, he must have thought
3 pretty highly of you to ask you to come with
4 him to help him.

5 A. Yes.

6 Q. So what is your role in setting
7 thresholds, if any?

8 A. Currently, none.

9 Are you asking at the time
10 frame?

11 Q. Sorry, back when you worked in
12 the anti-diversion department.

13 A. So there again, that was very
14 specific. So setting the thresholds are
15 different for the different roles, so what
16 time are you actually --

17 Q. Was there anytime that you were
18 assisting in setting thresholds?

19 A. Well, definitely.

20 Q. Okay.

21 A. So that's why I'm trying to
22 tell you -- ask which time frame that you're
23 questioning and how those are handled.

24 Q. Sure. Sure.

25 When was it that you were

1 involved in any way in setting thresholds?

2 A. In both roles.

3 Q. In any role?

4 A. Both roles. That's my answer.

5 Q. Oh, yeah, sure.

6 A. So as a new account

7 specialist --

8 Q. Sooner or later you and I are
9 going to get on the same page, I promise.

10 A. I'm trying.

11 Q. No, listen, I appreciate it.

12 A. So, definitely. So a new
13 account specialist, if an account has been
14 approved for the sale of controlled
15 substances, they're the ones that actually
16 use the system to apply those thresholds to
17 each individual customer. Okay? Those are
18 preset. Those are -- it's just a matter of
19 being systematic so that each customer has a
20 base threshold for each drug family. So
21 that's kind of the responsibility in the new
22 accounts.

23 Q. And you say it's preset.

24 Explain what you mean to us.

25 A. So as a new account specialist

1 there's, you know, ways of approving, right,
2 to make sure that the customer is valid and
3 legitimate and should be purchasing
4 controlled substances. But the pharmacists
5 had already, you know, stated, depending upon
6 the size of a pharmacy, what those types of
7 thresholds should be.

8 So it wasn't necessarily
9 individually to say that -- a new account
10 specialist would say, oh, this is the number
11 or the value that this pharmacy should have.
12 That was all done by, you know, some form of
13 statistics, analytics, handled by a
14 pharmacist, all preset prior to that
15 happening.

16 Q. So to make it simple for
17 someone like me, there is a -- correct me if
18 I'm wrong -- there is a predetermined matrix
19 of some sort, grid, that depending on what
20 type of pharmacy or drugstore you are and
21 what size you are, you get plugged into this
22 grid, and that tells you what the thresholds
23 will be for the different drug families?

24 A. That's correct, yes. They're
25 all preset on a conservative level of what it

1 should be, so then we can begin to see a
2 pattern and how they order.

3 MS. WICHT: Again, at that time
4 that she was serving --

5 THE WITNESS: That's correct.

6 MS. WICHT: -- in the account
7 setup role.

8 QUESTIONS BY MR. FULLER:

9 Q. Now, did you have any input
10 into what this matrix was --

11 A. No.

12 Q. -- at any point in time?

13 A. No.

14 Q. Did you have any ability to
15 vary from what this matrix was for a new
16 client?

17 A. Absolutely. I mean, if we felt
18 that once they were put in place, if they
19 were -- if we used the small category and we
20 decided or thought that they didn't even need
21 those, we would ratchet that down. So, you
22 know, we would have explanation of what was
23 needed for that.

24 Q. In that example that you just
25 gave us, is that still as part of the new

1 account setup, or is that after we deal with
2 them for a little bit?

3 A. Both.

4 Q. Okay. But in your role as new
5 account setup, could you still go in and
6 change their threshold after they've been
7 approved, or does that go to someone else?
8 I'm trying to distinguish roles because from
9 the title, new account setup seems like
10 you're just doing the new account setup.

11 A. And at the time, yes, I mean,
12 we would -- if we had a recommendation to the
13 pharmacist that said, for example, on a new
14 account setup, right, it would have a
15 questionnaire, and if they did not sell --
16 there are many pharmacies that decide that
17 they don't want to sell any C-IIs, okay?

18 So in that case, we would then
19 say, "Hey, this is their answer. These
20 aren't the drugs that they want to purchase.
21 We would like to take that down to a zero,"
22 so that they couldn't get any.

23 Q. Sure. Sure.

24 A. Okay. So those were the types
25 of decisions or callouts that we would make

1 as a new account setup team at that time.

2 Q. Now, if it's a pharmacy that
3 says, "Hey, no, no, I want more than that,"
4 did you have the ability to increase the
5 threshold as a new account setup person?

6 A. At that time, no, not at all.
7 We would have to get an approval for that.

8 Q. And that approval would have to
9 come from who?

10 A. From leadership or a
11 pharmacist.

12 Q. And when you say "leadership,"
13 help me out.

14 A. I mean -- I apologize.
15 Leadership in that type of role was anybody
16 that was manager, director, in the
17 department.

18 Q. Someone like Mr. Hartman could
19 certainly give that approval?

20 A. Mr. Hartman would not.

21 Q. Okay. And why not?

22 A. Because that was not his
23 specialty. He relied on his pharmacist for
24 that.

25 Q. Okay.

1 A. Uh-huh.

2 Q. So you mentioned that, for
3 example, if we were zeroing them out because
4 they didn't want to sell C-IIs, that we would
5 have to document that, correct?

6 A. That's correct.

7 Q. Okay. With all of the stuff
8 that you're doing, with all the due
9 diligence, with all the analysis of new
10 accounts, is all that documented somewhere?

11 A. To the best of my knowledge at
12 that time, yes, it would have been
13 documented.

14 Q. Okay. And what type of
15 documentation did you keep? Were there new
16 account files? Were there diligence files?

17 A. Yes. Yes.

18 Q. Which one? Both?

19 A. Well, both, right.

20 Q. Okay.

21 A. I mean, due diligence is an
22 entire packet. We would gather the
23 information, put it together, and then it
24 would be kept electronically in a file.

25 Q. So that at any point in time if

1 you needed to go back and look, you could
2 always that access that file?

3 A. Absolutely.

4 Q. If anybody questioned why you
5 approved them, you have that information
6 there?

7 A. That's correct.

8 Q. Okay. When you joined the
9 anti-diversion department in 2007 --

10 A. Yes.

11 Q. -- how many people were in that
12 department?

13 A. Oh, goodness. I don't have an
14 exact number. I believe there was seven or
15 eight, uh-huh.

16 Q. Okay. Safe to say less than
17 ten?

18 A. Yes, when I joined, uh-huh.

19 Q. Okay.

20 A. For that department, uh-huh.

21 Q. Now, did that department grow
22 over the time and by the time you left in, I
23 think, '14?

24 A. Yes.

25 Q. So say in '14, how large or

1 small was that department?

2 A. I believe there were 14, but
3 again, I don't have an exact amount.

4 Q. No, that's fair.

5 A. Now that's just that
6 anti-diversion department, though.

7 Q. Right.

8 A. Okay.

9 Q. Now, at that point in time did
10 the anti-diversion department have people out
11 in the field, too, at the -- or distribution
12 centers?

13 A. So...

14 Q. Go ahead.

15 A. So the field, we did have field
16 representation.

17 Q. Okay. Now, would that be a
18 person at each distribution center or would
19 it be people that covered certain
20 geographical areas? How did that work?

21 A. I wasn't on staff to even bring
22 that up to speed. Like I was not a hiring
23 manager for that. I don't know.

24 Q. Not something you knew?

25 A. No. No.

1 Q. But you knew there were people
2 out in the field?

3 A. There were, yes.

4 Q. Do you know what they did?

5 A. No, I don't.

6 Q. Hopefully something with
7 anti-diversion, right?

8 A. Hopefully something in the
9 distribution center for that reason, yes, or
10 in their regions or areas.

11 Q. All right. So let's talk a
12 little bit more about how your role changed
13 when you became the analyst, senior analyst,
14 for quality and regulatory.

15 Tell us in a little more detail
16 what you did there.

17 A. Well, again, it was case
18 management. So if a case had -- if an order
19 had surpassed their threshold --

20 Q. Yes, ma'am.

21 A. -- case would come into our
22 system. And we would take a look at, you
23 know, again, the drug family, the threshold,
24 what had already been shipped, if anything,
25 and make decisions using the tools that we

1 had in front of us to make a decision on
2 whether we would release the order or cut the
3 line.

4 Q. Now, so an order is placed by a
5 pharmacy or a drugstore?

6 A. That's correct.

7 Q. That comes into this automated
8 system, right?

9 A. If it's over threshold, yes.

10 Q. Well, and I'm sorry. There's
11 an automated system for ordering altogether;
12 is that correct?

13 A. Yes.

14 Q. Okay. So someone places an
15 order, and it does just what you said, exceed
16 a threshold, does it get taken out of the
17 system that's going to the distribution
18 center?

19 A. Yes.

20 Q. Okay. So they won't even know
21 about it?

22 A. That's correct, they have no
23 idea.

24 Q. Do they get any notice that,
25 "Hey, we have a hold on this order from this

1 pharmacy or this drugstore"?

2 A. At the distribution center?

3 Q. Yes, ma'am.

4 A. I don't know that.

5 Q. Okay.

6 A. I don't know.

7 Q. But it was your belief that
8 this order, when it exceeds this threshold,
9 gets pulled out of the regular system and
10 diverted to the anti-diversion department?

11 A. That's correct.

12 Q. And who does it come to, or
13 does it come to all of you in the
14 anti-diversion department?

15 A. Depending upon the assignment,
16 I mean, it's kind of -- it's case management,
17 so it's assigned by region or area, you know,
18 that -- so depending upon the distribution
19 center, it would depend upon who it was
20 actually assigned to.

21 Q. So, for example, during the
22 time that you were acting as -- in the
23 analyst role, what was your region, or did it
24 change over time?

25 A. I had multiple regions.

1 Q. Which would include what?

2 A. I had the Aurora distribution
3 center. I had Lakeland distribution center.
4 I had Swedesboro distribution center. I had
5 Wheeling distribution center. And I had
6 Knoxville distribution center.

7 Q. Now, was that -- did you have
8 all of those facilities or distribution
9 centers for the two years you were filling
10 that role?

11 A. I believe so.

12 Q. Okay.

13 A. I do. I believe so.

14 Q. And I apologize. Let me back
15 up a little bit.

16 When you came into the
17 anti-diversion department as administrative
18 assistant, did you receive any specialized
19 training related to anti-diversion?

20 A. As an administrative assistant?

21 Q. Yes, ma'am.

22 A. Hands-on training, you begin to
23 hear and begin to learn. I did not have to
24 go through any type of formal training to be
25 an administrative assistant, no.

1 Q. And how about when you moved or
2 got the promotion to become the new class
3 specialist, did you receive any training for
4 that job?

5 A. Yes, absolutely.

6 Q. And tell us what kind of
7 training you received and from who.

8 A. It was internal training. It
9 was a lot of hands-on. As an administrative
10 assistant, I had already seen the documents
11 that we were gathering for the
12 questionnaires. So definitely, you know,
13 looked through those and see there were --
14 there were key questions that the pharmacist
15 had wanted answers to or would be, you know,
16 notified if there were certain answers on
17 them. So, you know, all of the key questions
18 were something that I already kind of knew.

19 Q. Right.

20 A. So going through those and then
21 deciphering the training was really what
22 those answers meant, you know. But other
23 additional information would be needed if
24 they were different answers or certain
25 answers that, you know, once raised to the

1 pharmacist level of, you know, approval-type
2 thing, then what would we need to gather for
3 the due diligence.

4 Q. Now, how about for the analyst
5 position? You've been in new clients for a
6 couple of years; now you're moving on to
7 analyst.

8 Did you receive any training in
9 that regard?

10 A. Yes.

11 Q. Now, was this some of the stuff
12 that you had already seen, though, being in
13 new clients?

14 A. I had not worked in any of the
15 case management, so that part was new. So
16 there was, you know, formal training as far
17 as it was internal, but it was formal
18 training that was set up so that we would
19 know what, you know, we were looking at at
20 that point in time.

21 Q. When you say "looking at," what
22 do you mean?

23 A. Well, in the case management,
24 so that you would see and you would
25 understand exactly what was provided in that

1 case.

2 Q. So let's talk about the
3 threshold setting and the -- the new client
4 analysis, not threshold setting. I'm sorry.

5 New client analysis. What type
6 of information would you gather on a new
7 drugstore or a new pharmacy? Say, whether it
8 be -- and if it does, differentiate for me if
9 it differs from, say, between, you know,
10 Joe's Pharmacy versus a CVS.

11 Okay?

12 A. Uh-huh.

13 Q. Well, let me ask: Does the
14 process differ depending on who the potential
15 drugstore or pharmacy is?

16 A. Only if there's a prime vendor
17 agreement. So, you know, as far as all
18 licenses or due diligence, no, it does not
19 change.

20 Q. Well, now I've got to ask what
21 a prime vendor agreement is.

22 A. To be perfectly honest, I do
23 not know all the details in it.

24 Q. No. No. I'm kidding.

25 A. But it's an agreement from

1 contracts that are set up from the sales
2 department, I would assume.

3 Q. And do you know what the gist
4 of the agreement does? What the purpose of
5 this prime vendor agreement is?

6 Does it give them special
7 ordering rights or quicker delivery?

8 A. Not to my knowledge, no.

9 Q. What does it --

10 A. No quicker deliveries.

11 Q. What does it do for them?

12 Does it set any certain amount
13 that they have to order?

14 A. I don't have the details. I
15 don't know what's in those contracts at all.

16 Q. So whether a drugstore or
17 pharmacy has a prime vendor agreement, does
18 it affect your due diligence as they're
19 coming in as a new customer then?

20 A. No.

21 Q. Okay. Again, take us through
22 the process. New client. I'm, you know,
23 Mike's Pharmacy, and I want to become a
24 customer of Cardinal's and receive deliveries
25 of controlled substances.

1 A. Okay.

2 Q. What are you going to do?

3 A. So when I was in that
4 department --

5 Q. Yes.

6 A. -- what we did at that point in
7 time --

8 Q. Just so we're clear, this is
9 during, say, 2010 to 2012, correct?

10 A. Yes.

11 Q. Okay.

12 A. So we would gather -- the sales
13 representatives would have to submit for
14 that, right, they're the front line to the
15 customer. So they would have to submit
16 licenses, requests that they wanted to
17 purchase controls. There is a questionnaire
18 that would have to be filled out. There
19 would be photos gathered. There could be
20 dispense data and usage.

21 I think that -- that -- those
22 pieces would at least get it started where we
23 could at least begin to work on gathering due
24 diligence on that -- on that account.

25 Q. And you say salespeople.

1 What's the title of the salespeople; do you
2 know?

3 A. Sales managers? I'm not
4 100 percent certain on their titles.

5 Q. No, that's all right.

6 A. I don't know.

7 Q. But these are the people that
8 have the face-to-face contact with the
9 customers?

10 A. That's correct.

11 Q. These are the ones that try to
12 make sales and do sales with the drugstores
13 and pharmacies on a regular basis?

14 A. Yes.

15 Q. Okay. Do you know if they're
16 based out of Dublin or they're scattered all
17 over the place?

18 A. Cardinal Health sales force is
19 across the country.

20 Q. Okay. Now, let's go through
21 this initial setup. Well, let's actually
22 keep going. You said this is the initial
23 setup information.

24 What do you do with it when you
25 get it?

1 A. Well, we validate and we
2 verify. So we would start with licenses --

3 Q. Okay.

4 A. -- for example, if it was a
5 valid license, if there's any action held
6 against it, if -- which would be the stores,
7 right, the ship-to locations' DEA license.
8 It would be the state license of the
9 pharmacy. It would be the state license of
10 the pharmacist, the pharmacist in charge, a
11 pharmacy tech. If there was any individual
12 in the pharmacy, that was working in that
13 pharmacy, we would require their license.

14 Q. Okay.

15 A. Validate, make sure that
16 there's no action held against them, and then
17 from there kind of move down through, you
18 know, Internet research for where the store
19 is located, the surrounding area.

20 Q. What are you looking for?

21 A. Validation in some cases that
22 what their questionnaire states is truthful
23 and matches for validity purposes. Some of
24 it, if it's a brand new store, we would have
25 photos for -- you know, to make certain that

1 they had vault purposes, right?

2 So just various reasons to have
3 photos or do Internet research on the
4 location of what -- where it was.

5 Q. And then you mentioned
6 dispensing data. What's that?

7 A. It's a report that can be run
8 from a pharmacy's ordering systems that will
9 give the information on what -- what they
10 have dispensed for a period of time that they
11 so choose to run that report.

12 Q. Now, Mr. Baranski was here
13 yesterday, and I think he referred to
14 something like that as a usage file.

15 Does that sound familiar?

16 A. Yes, usage. That's the same,
17 yeah.

18 Q. And I've seen it -- something
19 referred to as a drug utilization report?

20 A. That's the same as well.

21 Q. Okay. So it's all this
22 dispensing data?

23 A. Right. Correct.

24 Q. And what type of information
25 can you get from the pharmacies in this

1 dispensing data? Why do you ask for it?

2 A. If they're an existing, right,
3 so they have to be an existing customer or an
4 existing store, right? So if it's a brand
5 new store, which is different, they would not
6 have it.

7 Q. That means because they weren't
8 open --

9 A. They haven't been open. They
10 have no -- they haven't dispensed anything --

11 Q. They have no history?

12 A. -- so you can't obtain such a
13 thing.

14 Q. Sure.

15 A. If they have some kind of
16 history and they're just new to Cardinal,
17 then it gives an idea of what it is that they
18 have actually dispensed for the past month,
19 two months, you know. Some of them will only
20 provide, you know, a month's worth of data.

21 Q. Now, you say it gives an idea.

22 Does it give you an idea, or
23 does it give you actual numbers?

24 A. Depending upon -- so when they
25 run it, right, so if they run it mid-month to

1 mid-month, then you can only assume, right,
2 which is not always great, that it's a 30-day
3 period. You have to have at least a 30-day
4 period, and then it would at least give the
5 information that they had dispensed.

6 Q. And when you say "information
7 they dispensed" --

8 A. By drug family is what we
9 request.

10 Q. Okay. So you can actually get
11 it just by drug family for -- sorry.

12 So actually give you the number
13 of pills per drug family, right?

14 A. That's correct.

15 Q. Now, can you also get -- we're
16 talking, I think, controls, controlled
17 substances; is that --

18 A. That's correct.

19 Q. Can you also get noncontrolled
20 substances?

21 A. That we can actually get
22 from -- yes, if they will provide it. That's
23 kind of the question. But, yes, you could.
24 You could actually obtain that.

25 Q. And certainly you guys could

1 demand it, right?

2 A. We could.

3 Q. I mean, you could say, "Look,
4 give us the information" --

5 A. Uh-huh.

6 Q. -- "or we're not going to sign
7 you up."

8 A. That's correct.

9 Q. Did you ever have problems
10 getting this dispensing data or usage files?

11 A. Not on a normal basis. The
12 issue is that it has HIPAA information. So
13 when that report gets run, if they don't
14 cleanse it, they're still complying and
15 sending it, and then we would have to either
16 cleanse it or send it back. So it can take
17 some time, but they would send it, yes.

18 Q. Okay. So the only issue being
19 potential HIPAA, which you've seen those
20 reports run in the past without HIPAA
21 information as well?

22 A. Correct.

23 Q. Okay.

24 A. So we would push for the issue
25 to make sure that we would get cleansed data,

1 yes.

2 Q. And assuming the store has been
3 open, you can ask for more than just a month?

4 A. That's correct.

5 Q. Do your people ask for that?
6 If you know back then during 2010 to 2012.

7 A. I don't know if there was a
8 ruling on what the sales representatives were
9 to ask for on that.

10 Q. Now, you, as the new client
11 specialist, can say to your salesperson,
12 "Hey, I want to see more data. Go back and
13 ask for the last six months," right?

14 A. I could.

15 Q. Okay. Now, is there any other
16 source that you could get this information
17 from other than asking the pharmacy?

18 MS. WICHT: Objection.

19 THE WITNESS: Asking the
20 pharmacy directly?

21 MS. WICHT: Calls for
22 speculation.

23 QUESTIONS BY MR. FULLER:

24 Q. Was there any other source that
25 you could go to get this information?

1 A. No, the pharmacy has to provide
2 it.

3 Q. Okay.

4 A. At that time, that's what we
5 utilized.

6 Q. So you're not aware of any
7 other source where you could get the same
8 dispensing data?

9 A. To that degree? No. There's a
10 data feed that we could use.

11 Q. What's a data feed?

12 A. You know, I'm not 100 percent
13 certain how it actually works through our
14 sales team, through our sales -- that's not
15 correct. It's through the sales purchase
16 history, but there again, they have to be a
17 Cardinal Health, already, customer. So
18 during, you know, the new account setup, that
19 was not anything that was able to be
20 utilized.

21 Q. So that data field that you're
22 referencing, that's something that's only for
23 Cardinal -- customers that are already with
24 Cardinal?

25 A. That would have not been

1 anything that the new account team -- at the
2 time that I was involved with the new account
3 team could have possibly ever utilized, no.

4 Q. Okay. So to your knowledge,
5 there's no other source to gain that
6 dispensing data, other than from getting it
7 from the pharmacies themselves?

8 A. That's correct.

9 Q. Okay. And do you know whether
10 you could actually request to have the
11 information ran different ways from the
12 pharmacies, this dispensing data?

13 A. I'm not sure I understand your
14 question.

15 Q. Sure.

16 You said they broke it out by
17 drug family.

18 Could they break it out by
19 actually pills, the actual -- the dosage
20 units as well, or the dosages?

21 A. I would suppose they could.

22 Q. Now, Mr. Baranski was telling
23 us yesterday that the usage file, dose
24 dispensing data, that they use it to make
25 sure that they can meet client needs. If

1 they got to increase volume, they need to
2 know what kind of increased volume they're
3 going to have.

4 Does that make sense?

5 A. Sure.

6 Q. Okay. You guys use it in the
7 threshold process to look back historically
8 at what that client or what that potential
9 client may be ordering in the past or
10 dispensing in the past; is that right?

11 MS. WICHT: Object to the form.

12 MR. FULLER: Yeah, strike that.

13 That was bad.

14 QUESTIONS BY MR. FULLER:

15 Q. Whether the client -- excuse
16 me. Whether the pharmacy or drugstore is
17 ordering from one distributor or multiple
18 distributors, the dispensing data is going to
19 show how many pills are going out,
20 irrespective of where they come from,
21 correct?

22 A. It should, yes.

23 Q. You say "it should."

24 A. I don't know how they can run
25 it. I'm not on their systems.

1 Q. Okay.

2 A. Right? I mean, that's only
3 fair. I don't know -- when we request
4 something, that has to be in the trust that
5 they're giving us what we have requested.

6 Q. That they're running it the way
7 you've asked it be run?

8 A. That's correct.

9 Q. Okay. And assuming they run it
10 the way you ask them to run it, when you
11 request a dispensing data or a drug
12 utilization report, you're going to know how
13 many pills are leaving that pharmacy for
14 whatever period it is ran for?

15 A. That's correct.

16 Q. So now take us from that point
17 forward. You have all this information. You
18 went through it.

19 What's your next step in the
20 process?

21 A. Well, there's also a question
22 that shows or -- that can counteract that on
23 the questionnaire. We also ask them how many
24 prescriptions they fill in a month's time.

25 So by knowing that, even if

1 they only provided controlled substances on
2 the data usage, there should also be a
3 balance on the noncontrols because of the
4 prescription count, not just the usage.

5 Those all come into play. I
6 mean, there's not one specific response that
7 causes whether or not you approve. So you
8 have to go through all of it.

9 Q. Right.

10 A. You have to figure out all of
11 the information that is provided, all the
12 information that you gather, and then if it
13 makes sense that, you know, you don't find
14 anything as far as any kind of a licensure
15 issue, if it makes sense that the size that
16 they are stating that they are matches to the
17 prescription count and it matches to the
18 controls to noncontrols, then we could
19 approve an account for purchase or we could
20 deny the account, depending upon our
21 findings.

22 Q. And we talked about you sort of
23 plug the potential new drugstore, new
24 pharmacy, in this matrix.

25 What goes into calculating

1 where they fall onto this matrix? Is it size
2 and what else?

3 A. It would be size of how many
4 prescriptions per month. It would be the
5 amount of controls or -- and noncontrols that
6 they use.

7 Q. So is it the percentage of
8 each?

9 A. It's not a percentage. It's
10 not to the exact count. It's a variation
11 of -- from small, medium, large. Those were
12 already preset by the pharmacist that would
13 make sense.

14 On a small or medium-sized
15 pharmacy, that could be set with a boundary
16 of thresholds, right? I mean, so it's kind
17 of -- if they're new to Cardinal and we, you
18 know, didn't know exactly what it was that
19 they would be purchasing from Cardinal, they
20 have to, you know, tell you if they're
21 primary or secondary.

22 There's all of the different
23 pieces to the matrix that kind of represents
24 how we would actually establish what size
25 they would fall into, which would then

1 categorize where and which threshold settings
2 we would use.

3 Q. And so the record's clear, you
4 mentioned primary and secondary. I think I
5 may know what that means, but can you explain
6 that to us?

7 A. Well, if a pharmacy says
8 they're going to purchase everything or the
9 mass majority of all of their products
10 through one distributor versus having
11 multiple, that goes into play.

12 Q. So that would be a scenario
13 where --

14 A. So if they're going to -- yeah.
15 So if they're going to use just Cardinal,
16 then that would be considered a primary. If
17 they were going to use two, then that would
18 be -- we would set that for a secondary.

19 Q. Okay. So -- all right. So I
20 just drew this while we were sitting here
21 chatting.

22 So -- and this is just a really
23 bad sketch. So if this is a new drugstore
24 threshold grid and we consider such things as
25 you mentioned, number of scripts, number of

1 controlled versus noncontrolled, primary,
2 secondary, the computer system is going to
3 give us somewhere in here on this grid where
4 the new customer is going to fall, right?

5 A. The computer is not going to
6 give that.

7 Q. So you're just going to plug it
8 in?

9 A. We're going to make the
10 decision to begin with if they are considered
11 a small, medium or large --

12 Q. Okay.

13 A. -- and then we're going to go
14 from there, right? So that's a decision that
15 is made; that's not a calculation from the
16 computer.

17 Q. Okay. So you're going to
18 decide if it's small, medium, large, and it's
19 going to take to us a certain spot on this
20 grid; is that correct?

21 A. Yes.

22 MS. WICHT: Object to the form.

23 QUESTIONS BY MR. FULLER:

24 Q. And then wherever they fall on
25 this matrix, or this grid, that's going to

1 tell us what their threshold numbers are
2 going to be; is that right?

3 MS. WICHT: Object to the form.
4 Foundation.

5 THE WITNESS: Sir, I don't
6 think that you're understanding what
7 I'm categorizing. I think you have
8 more of a grid. This is actually
9 what -- the grid, or the matrix, is
10 actually the numbers behind, right?

11 So if there are -- I feel like
12 you're trying to make me pinpoint
13 exactly what a threshold would be for
14 this specific customer. There are
15 little -- it's more small, medium,
16 large --

17 QUESTIONS BY MR. FULLER:

18 Q. Okay.

19 A. -- and then you customize from
20 there.

21 So it's not necessarily that I
22 would pick that box to say what that's going
23 to be. You've got way too many options on
24 this as far as we would calculate from using
25 this information, I personally would. It

1 would be no computerized piece that gives me
2 the calculation to that.

3 At that point we would then go
4 to the computer and apply the thresholds
5 based on what we found or what we decided to
6 say is a small, medium or large category, and
7 then it would also depend upon the class of
8 trade. So those are -- that's where you're
9 kind of getting into that grid and box.

10 Q. Okay. So we have -- so tell me
11 again what we do have.

12 We have small, medium and large
13 that are taken into consideration?

14 A. That's correct.

15 Q. We have class or category?

16 A. Class of trade, yes.

17 Q. Class of trade.

18 And are those mainly the two
19 factors that go into it?

20 A. Yes.

21 Q. Okay. And how many classes of
22 trade do we have, best you can recollect?

23 A. A handful maybe.

24 Q. Okay. And what are classes of
25 trade?

1 A. The type of pharmacy. It could
2 be a retail independent. It could be a
3 hospital. It could be a long-term care. It
4 could be a 340B account. There could be all
5 kinds of different classes of trades in
6 there.

7 Q. Okay.

8 A. Uh-huh.

9 Q. I mean, it --

10 A. So those -- but those
11 thresholds vary. So when you're pinpointing
12 something on that box, that's not quite
13 appropriate.

14 Q. So let me make sure I
15 understand, though.

16 If we have a medium facility,
17 medium drugstore, and it's independent, it's
18 going to have a certain threshold set?

19 A. That would be correct.

20 Q. If we have another medium
21 that's a hospital, we go to its threshold,
22 its threshold may be different than the
23 independents?

24 A. That's correct.

25 Q. If we have a large that's an

1 independent, his threshold is going to be
2 different than the medium independent?

3 A. That's correct.

4 Q. So it -- okay. So it's
5 probably -- you're right, it's probably a
6 much smaller grid if we line up small,
7 medium, large and all --

8 A. And worked with just that type
9 of class of trade for that response or that
10 need, and then you would work --

11 Q. So the class of trades may go
12 up this side and -- you're right, I mean --

13 A. Correct.

14 Q. I'm not going to ask you to
15 name them all, but there's multiples?

16 A. No, please don't. At the
17 moment, I mean, just having to -- I might
18 miss one.

19 Q. Yeah. No. No. That's fine.

20 So the matrix is set by
21 determination of class of trade and whether
22 it's a small, medium, large within that
23 class, correct?

24 A. That's correct.

25 Q. And that will tell us what the

1 threshold is for that respective drugstore,
2 pharmacy, hospital, long-term care facility,
3 whatever it is?

4 A. That's correct.

5 MR. FULLER: Okay. So we've
6 been going just about an hour, a
7 little over an hour, so I usually try
8 to stop every hour for a bathroom
9 break, stretch your legs. So if
10 that's okay with you, that's what
11 we'll do.

12 THE WITNESS: That's fine.

13 VIDEOGRAPHER: Going off the
14 record. The time is 10:09.

15 (Off the record at 10:09 a.m.)

16 VIDEOGRAPHER: We're going back
17 on the record. Beginning of Media
18 File Number 2. The time is 10:27.

19 QUESTIONS BY MR. FULLER:

20 Q. Let me ask, Ms. Justus, talking
21 about the dispensing data just a little bit
22 more, did you guys ever utilize any outside,
23 third parties to help with the investigations
24 of these new customers, these new drugstores,
25 these new pharmacies?

1 MS. WICHT: Object to the form.

2 THE WITNESS: During that time

3 frame of new account setup?

4 QUESTIONS BY MR. FULLER:

5 Q. Well, let's start with that

6 time frame, yes, ma'am.

7 A. No.

8 Q. So it would just be --

9 A. Not that I can remember that we
10 had third-party data.

11 Is that what you asked?

12 Q. Well, no, ma'am. I asked if
13 you used any third-party sources to help
14 collect information or anything like that as
15 far as the new client setup process.

16 A. We had an investigative team.
17 I mean, if we wanted an investigator to go,
18 that would have been an outside source, I
19 guess, other than what was in front of us,
20 yes.

21 Q. So when you -- and you say
22 investigative team.

23 Would the investigators work
24 for Cardinal or is it some contract help or
25 assistance?

1 A. Both.

2 Q. Okay. Any other third parties
3 that assisted with that process? And again,
4 limiting it to the new client process.

5 A. Not that I can think of at this
6 time.

7 Q. And how about your threshold
8 analysis, which we'll get into here in a
9 minute, but any third parties that you had
10 assist you in that part of the job?

11 MS. WICHT: Object to the form.

12 THE WITNESS: I don't know how
13 those thresholds were actually set.
14 The pharmacist -- these were preset
15 for the new account specialists. That
16 wasn't anything that the new account
17 specialists did.

18 QUESTIONS BY MR. FULLER:

19 Q. Right. I'm referring more to
20 the diligence that you do when you get a
21 threshold event.

22 Would you utilize any third
23 parties to help with that investigation or
24 that due diligence?

25 A. That's not in the new account

1 setup process.

2 Q. No, ma'am. I said, is it when
3 we go into the analysis part of your job
4 duties.

5 A. Yes.

6 Q. When you changed jobs --

7 A. Yes.

8 Q. -- did you use any third
9 parties for that section?

10 A. We had what was considered a
11 data feed. I don't know exactly where all of
12 that came from. That was from a system
13 ordering.

14 Q. And what is a data feed? Help
15 me understand what it is.

16 A. So it shows -- it takes
17 historical purchases. It has all of the
18 Cardinal purchase data in it. And if a
19 pharmacy has signed up for or paid for the
20 subscription, it would then give all of their
21 data and dispense data.

22 Q. When you say "signed up for" a
23 subscription, help me understand. I --

24 A. I don't know the exact details
25 of how it all works or what they have to

1 subscribe to or the details behind it.

2 Q. Yes, ma'am.

3 A. So I really can't help you

4 understand that, other than that was a tool

5 that we used through historical purchases.

6 Q. Who would know more information
7 about that?

8 A. I guess the decisionmakers that
9 actually have the means to access that. I'm
10 not even sure who in Cardinal would say -- or
11 how to or otherwise get that information. I
12 don't know.

13 Q. But it's something that you had
14 access for if they had a sub -- well, you had
15 access -- strike that.

16 So you had access for a data
17 feed for at a minimum Cardinal's past history
18 with that particular drugstore or pharmacy,
19 right?

20 A. Sure. I mean, we had our --
21 the historical data of our sales, yes.

22 Q. Because it's your sales?

23 A. Exactly, and that's what we
24 would use in that.

25 Q. And if they had a subscription

1 for this data feed process, you would have
2 additional information; is that correct?

3 A. I don't know how that worked.

4 Q. I understand you don't know how
5 it worked --

6 A. Okay.

7 Q. -- but you had additional sales
8 data other than just Cardinal sales data?

9 A. I do not know that that is
10 actually what came in there. I know that we
11 would have more than what was controlled
12 substances. We would be able to tell how
13 many prescriptions, but then that
14 validated -- that would validate everything
15 that we would see as all of Cardinal Health's
16 purchases.

17 Q. And you mentioned -- you
18 mentioned that if they signed up for the
19 subscription, which is something -- let's
20 back up.

21 They don't have to sign up for
22 a subscription for you to have all of
23 Cardinal's sales data, right?

24 A. That's correct.

25 Q. So when they sign up for the

1 subscription, whatever it may be, there's
2 additional information that comes along with
3 that?

4 A. I believe so, yes.

5 Q. And I think you testified a
6 moment ago that it includes all their
7 dispensing data?

8 A. You are correct. I did say
9 that. I am not certain that that is a
10 correct statement. I do not know exactly
11 what comes into that data feed.

12 Q. But clearly when they sign up
13 with a subscription, it's more than just
14 Cardinal's sales data?

15 A. I would assume so, and that's
16 unfair. I do not know that to be exact.

17 Q. Do you know who would sell
18 these subscriptions to the pharmacies? Would
19 it be the sales reps?

20 A. To the best of my knowledge,
21 yes.

22 Q. Okay. Now, were there ever
23 files that you got -- strike that.

24 So now let's go forward into
25 that where we just dove a little bit, into

1 the analysis side of your job when you became
2 the senior analyst for quality and
3 regulatory.

4 We talked a little bit about
5 setting thresholds. Now your job is dealing
6 with existing drugstores and pharmacies and
7 threshold events; is that correct?

8 A. That's correct.

9 Q. Okay. And what is a -- do you
10 have an understanding of why we set -- or why
11 you guys are required to set thresholds?

12 MS. WICHT: Object to the form.

13 THE WITNESS: To the best of my
14 understanding, so that we would know
15 and have a baseline of -- that we
16 wouldn't ship over that amount to any
17 extent, to watch for orders. I mean,
18 there's only so much that Cardinal
19 would want to ship.

20 QUESTIONS BY MR. FULLER:

21 Q. And the reason for these
22 thresholds is to monitor and try to -- well,
23 it's part of a system we have in place that's
24 required to monitor for suspicious orders.

25 Would you agree with that?

1 MS. WICHT: Object to the form.

2 THE WITNESS: It's to monitor

3 for anything that would go over

4 threshold.

5 MR. FULLER: All right. AJ,

6 pull me 243, 496 and 47. 2043 and 47.

7 QUESTIONS BY MR. FULLER:

8 Q. And, Ms. Justus, at Cardinal
9 you're dealing with controlled substances; is
10 that correct?

11 A. During that time frame, yes.

12 Q. And the dispersing of
13 controlled substances across the country; is
14 that right?

15 MS. WICHT: Object to the form.

16 THE WITNESS: The ordering,
17 yes, that's correct, was on controlled
18 substance orders.

19 QUESTIONS BY MR. FULLER:

20 Q. And there are certain
21 regulations that you're aware that pertain to
22 controlled substances and how they have to be
23 handled and how they have to be dealt with;
24 is that fair?

25 A. Yes.

1 MR. FULLER: Evan, if you'll
2 bring up the DEA website from
3 yesterday.

4 QUESTIONS BY MR. FULLER:

5 Q. And at Cardinal, you ship and
6 distribute not just Schedule V, IVs, IIIs,
7 but also Schedule II substances; is that
8 correct?

9 A. That's correct.

10 Q. And are you aware of what a
11 Schedule II substance is?

12 A. Yes, I am.

13 Q. And here you're looking at what
14 is off the DEA's website. For the record,
15 it's [www.DEA.gov\druginfo\ds.shtml](http://www.DEA.gov/druginfo/ds.shtml), the best
16 I can read it.

17 And it gives us a definition of
18 Schedule II drugs, correct?

19 A. That is correct.

20 Q. And it says, "Schedule II drugs
21 are substances or chemicals are defined as
22 drugs with high potential for abuse, with use
23 potentially leading to severe psychological
24 and physical dependencies and that these
25 drugs are also considered dangerous."

1 Do you agree with that?

2 A. I agree if they are used for
3 inappropriate ways, yes.

4 Q. And that they're dangerous if
5 they're used in inappropriate ways, right?

6 A. Inappropriate, yes.

7 Q. And you're aware that our
8 country is in the middle of an opioid
9 epidemic?

10 A. I have --

11 MS. WICHT: Object to the form.

12 THE WITNESS: I have read that,
13 yes, heard that.

14 QUESTIONS BY MR. FULLER:

15 Q. Do you agree with that or
16 disagree?

17 A. I don't have any -- I would --
18 I agree that it's an epidemic, yes.

19 Q. And you're aware that over 100
20 people are dying every day because of opioid
21 overdoses?

22 A. That's correct.

23 MS. WICHT: Object to the form.

24 MR. FULLER: And, Evan, if you
25 go to 2043, and we'll mark this as

1 Plaintiff's 1 for this deposition.

2 (Cardinal-Justus Exhibit 1

3 marked for identification.)

4 QUESTIONS BY MR. FULLER:

5 Q. So now we're looking at part of
6 what is the Controlled Substance Act.

7 You're aware that there is a
8 Controlled Substance Act out there that deals
9 with scheduled drugs; is that right?

10 A. I'm aware there's an act out
11 there, yes.

12 Q. Have you ever read it?

13 A. No.

14 Q. Have you ever looked at any
15 portion of it?

16 A. No.

17 MR. FULLER: Let's go to Sub 2,
18 Evan.

19 QUESTIONS BY MR. FULLER:

20 Q. This is the Congressional
21 findings and declaration related to
22 controlled substances.

23 Do you see that there,
24 Section 801?

25 A. Number 2, yes.

1 Q. Number 2 reads, "The illegal
2 importation, manufacture, distribution and
3 possession and improper use of controlled
4 substances have a substantial and detrimental
5 effect on the health and general welfare of
6 the American people."

7 You would agree with that,
8 wouldn't you?

9 A. I --

10 MS. WICHT: Object to the form.
11 Foundation.

12 THE WITNESS: Yeah, I have
13 never read this before. This is not
14 something that -- I would not say that
15 I'm even qualified to understand
16 everything on here. This would be
17 something that I would definitely
18 leave to my legal department to
19 decipher what all of this means.

20 QUESTIONS BY MR. FULLER:

21 Q. Sure.

22 But you would agree, would you
23 not, based on the dangerous propensity of
24 Schedule IIs, that the illegal or improper
25 use of those substances could lead to harm to

1 the general public?

2 A. They could.

3 MS. WICHT: Object to the form.

4 QUESTIONS BY MR. FULLER:

5 Q. And that's basically what it's
6 saying, right? "Illegal or -- illegal
7 importation, manufacture and distribution and
8 possession and improper use of a controlled
9 substance have a substantial detrimental
10 effect on the health and general welfare of
11 the American people."

12 It's saying the same thing,
13 right?

14 MS. WICHT: Object to the form.

15 THE WITNESS: I'm not going
16 to -- my legal department would have
17 to take a complete look at that and
18 decipher what that actually says.

19 MR. FULLER: Fair enough.

20 Now, Evan, if you'll go to 47.

21 (Cardinal-Justus Exhibit 2
22 marked for identification.)

23 QUESTIONS BY MR. FULLER:

24 Q. This has been marked as
25 Plaintiff's Exhibit Number 2. If you go down

1 to B, it talks about registrant obligations.

2 Have you ever seen this in the
3 past?

4 A. Yes.

5 Q. Have you had any training on
6 this regulation?

7 A. Training as in? I'm sorry, can
8 you --

9 Q. How it applies to you, what you
10 need to do to make sure Cardinal is complying
11 with this regulatory obligation that they
12 have?

13 A. Yes, Cardinal takes their
14 regulatory application very seriously.

15 Q. What kind of training have you
16 had related to these what's called suspicious
17 orders?

18 A. I've had internal training to
19 decipher what it is, what drug families.

20 Q. When you say "what it is," are
21 you referring to what a suspicious order may
22 be?

23 A. No, sorry. More so that the
24 registrant has their licenses, that we have
25 our licenses, that -- you know, at the time,

1 the training was stated that once a case came
2 into the case management system, that it had
3 breached a threshold, uh-huh.

4 Q. And is that all the training?

5 Did they teach you about
6 suspicious orders and what suspicious orders
7 meant?

8 MS. WICHT: Object to the form.

9 THE WITNESS: Yes. I mean, a
10 suspicious order, yes.

11 QUESTIONS BY MR. FULLER:

12 Q. And what is your understanding
13 of a suspicious order?

14 A. It's an order that would
15 deviate from size, frequency and pattern.

16 Q. And I think that's what the
17 regulation reads here. It says, "The
18 registrant shall design and operate a system
19 to disclose to the registrant suspicious
20 orders of controlled substances. The
21 registrant shall inform the field officer of
22 the DEA administration in his area of
23 suspicious orders when discovered by the
24 registrant. Suspicious orders include," what
25 you mentioned, "orders of unusual size,

1 orders deviating substantially from a normal
2 pattern, and orders of unusual frequency."

3 Is that your recollection?

4 A. During the time that I was in
5 that department, yes, we used the definition
6 of -- suspicious orders included orders of --
7 deviating from normal patterns of size --
8 size, pattern and frequency.

9 Q. Okay.

10 A. That's exactly right.

11 Q. Now, when you're dealing with
12 threshold events, is that normally dealing
13 with just size?

14 A. No.

15 Q. Okay. How does a threshold
16 event take into any consideration any pattern
17 or frequency?

18 A. The actual threshold event
19 would not. That's what the process is about.
20 The threshold event is systematic, so it
21 would state that it was over threshold.

22 Q. Which is a number, right?

23 A. That is just a number, that's
24 right.

25 Q. So when we say we have a

1 threshold event, we're talking about events
2 that are triggered just because of the size
3 or the number of pills being ordered; is that
4 fair?

5 A. That is not fair.

6 Q. Okay.

7 A. A threshold, it does not have
8 to be -- it is a -- the threshold is on a
9 monthly purchase. It is not -- at that time,
10 it was all on a monthly basis. It was not
11 specific to a given order; it was an order
12 that had breached threshold.

13 Q. Right.

14 And a breach of a threshold is
15 based on a number of pills?

16 A. But not in one order.

17 Q. Absolutely.

18 During the month?

19 A. That's right.

20 Q. So it, again, is based on a
21 number?

22 A. A threshold is a number.

23 Q. Okay.

24 A. That's correct.

25 Q. Did you have a system to

1 monitor for unusual frequency or deviation
2 from a pattern or normal pattern?

3 A. We utilized tools to do that,
4 yes.

5 Q. What tools would those have
6 been?

7 A. We used a Tableau file,
8 actually. Statisticians would create the
9 dashboard for us. That information came in
10 from the purchase patterns that our customers
11 had.

12 Q. And it's called a Tableau?

13 A. Tableau. It's a software, yes.

14 Q. Spelled T-a-b-l-o-w?

15 A. L-e-a-u.

16 Q. That's a new one.

17 And that looked at patterns --

18 A. It's a visual tool that gives
19 visual graphs, gives visual information so
20 that it can be identified in patterns, yes.

21 Q. Now -- okay. So have you
22 received any training on orders of interest?

23 A. No.

24 Q. Do you know what a order of
25 interest is?

1 A. Not by -- not by definition as
2 any kind of qualifications or what they are,
3 no.

4 Q. You haven't seen any
5 regulations related to orders of interest,
6 have you?

7 A. No.

8 Q. Okay.

9 A. That was not in my role, no.

10 Q. So when you receive a threshold
11 event, as the analyst -- so we're talking
12 about the time frame of 2012 to 2014.

13 A. Okay.

14 Q. You receive a threshold event.

15 A. Yes.

16 Q. Does that stop shipments of
17 that drug family or of all controlled
18 substances to that doctor, pharmacy or
19 drugstore?

20 MS. WICHT: Object to form.

21 THE WITNESS: Can you clarify
22 that a little further, please?

23 QUESTIONS BY MR. FULLER:

24 Q. Yes, ma'am.

25 A. Yeah.

1 Q. Once you have a threshold event
2 related to a controlled substance from a
3 drugstore or pharmacy --

4 A. Uh-huh.

5 Q. -- you have an obligation to
6 hold it, correct?

7 A. That's correct.

8 Q. You also have an obligation to
9 hold all other controlled substances going to
10 that drugstore or pharmacy as well, correct?

11 MS. WICHT: Object to the form
12 and the foundation.

13 THE WITNESS: That is not
14 necessarily -- that was not -- I can't
15 answer that. That's not anywhere
16 stated that I'm aware of.

17 QUESTIONS BY MR. FULLER:

18 Q. So would you continue to ship
19 controlled substances to that drugstore or
20 pharmacy?

21 MS. WICHT: Object to the form.

22 THE WITNESS: If you want to be
23 a little more clear on that, a
24 threshold event on a drug family, not
25 all controlled substances.

1 QUESTIONS BY MR. FULLER:

2 Q. So would you hold all future
3 shipments and orders related to a drug
4 family?

5 A. Anything subsequent in that
6 drug family, yes, was held.

7 MS. WICHT: Object to the form
8 of that question.

9 QUESTIONS BY MR. FULLER:

10 Q. And for how long would you hold
11 this drug family?

12 A. Depended upon the decision that
13 was made.

14 Q. Okay. And can you give me any
15 idea on how quickly you would turn around as
16 an analyst this analysis of a threshold
17 event?

18 A. It could take from a couple of
19 hours to a couple of days, depending upon
20 what kind of information we needed for it and
21 how fast that could get returned.

22 Q. Okay. And tell us -- you get
23 this threshold event. What's the first step
24 in your process?

25 A. Okay. Well, let's see. That

1 is a long time ago. Actually, I've done a
2 lot of things since then.

3 Q. I understand.

4 A. So my first step would have
5 been -- would have been to pull the Tableau
6 file. You look at the threshold. You look
7 at the amount that we have shipped. You look
8 at the order itself.

9 Q. What else? Anything else that
10 you pull initially?

11 A. Initially, probably not. From
12 what I can remember, that's -- that's kind of
13 my very first go-tos that I would pull.

14 Q. So Tableau is this graph that
15 you mentioned earlier, right?

16 A. That's correct.

17 Q. Okay. And then you review the
18 threshold. You have the threshold
19 information internally, so you just pull that
20 information for that particular client, that
21 pharmacy or drugstore?

22 A. That's in the case management
23 case.

24 Q. Okay. What's a case management
25 case?

1 A. The actual threshold event --

2 Q. Uh-huh.

3 A. -- when it comes into the case
4 management system --

5 Q. Yes, ma'am.

6 A. -- it is -- it's pulled from
7 the system so that it's right in front of
8 you. It's data that comes into the case.

9 Q. And this is all done
10 automatically?

11 A. Yes.

12 Q. Then you mentioned you look at
13 the amount shipped. Are you talking about
14 earlier that month, prior months?

15 A. The data that comes into --
16 with -- along with the case that's
17 automatically pulled is the amount for that
18 month.

19 Q. Okay. And these threshold
20 amounts, are they done on a month-by-month
21 basis?

22 A. Thresholds, yes, are on accrual
23 cycles, yes.

24 Q. So all of January would be one
25 cycle, February another, March another?

1 A. Yes. There are staggered
2 accrual cycles, but, yes, it's -- the month,
3 it's a 30-day, 31-day allotment, yes.

4 Q. And when you say "staggered
5 accrual cycles," what does that mean?

6 A. There are -- systematically,
7 you can have reset-type accrual cycles start
8 on the first of the month. There are those
9 that are set on -- to begin on the 8th of the
10 month, the 15th, the 22nd. It's a way so
11 that not all customers -- the threshold
12 events don't happen all across the country
13 all at the same time of the month. It's a
14 way to kind of balance out that because it
15 makes it a little easier to go through a day
16 when you don't have --

17 Q. Sure.

18 A. -- lulls in your day. So it's
19 more -- more for workload balance, but
20 that's -- depending upon the date that your
21 pharmacy would be on that accrual cycle,
22 that's the date, and that's a staggered
23 start.

24 Q. Got it.

25 A. Okay.

1 Q. And then you mentioned the
2 order itself.

3 A. Yes.

4 Q. Is that also automatically
5 pulled for you?

6 A. Yes.

7 Q. And I'm assuming that all the
8 orders that come in are electronically sent
9 in anyway?

10 A. Yes.

11 Q. They're not handwritten or
12 anything like that?

13 A. No.

14 Q. Okay.

15 A. Everything is electronic.

16 Q. And then what's your next step
17 in the process?

18 A. Well, from memory, that would
19 be kind of evaluating what the drug family
20 is, the patterns in which they have ordered,
21 the way they've placed their order, what
22 the past few months would be in that drug
23 family and how they've ordered that. It's
24 just the validation of whatever is utilizing
25 the tools in front of us.

1 Q. So at this point you're only
2 looking at that initial information, correct?

3 A. Yes.

4 Q. Okay. And what do you -- how
5 do you determine whether to release a
6 threshold at that point, or release an order,
7 I guess?

8 MS. WICHT: Object to the form.

9 THE WITNESS: Well, that's --
10 comes after the determination. It can
11 have various reasons that one would
12 release an order, and then there would
13 be various reasons that you would cut
14 an order.

15 So if you were going to release
16 an order, it has to have very strict
17 parameters. It has to be within
18 reason, and it has a percentage within
19 the threshold, depending upon how far
20 that is and what that is, of whether
21 or not you actually release an order.

22 Typically you make the cut on
23 the -- that's what it's called. It's
24 kind of a cancellation of the line or
25 a rejection. You would just cut that

1 order.

2 QUESTIONS BY MR. FULLER:

3 Q. And you say it's generally what
4 you do?

5 A. There are more -- yes, there
6 are more cuts than there are any kind of a
7 release, yes.

8 Q. Okay. And when you say "cut
9 the order," that's a cancellation of the
10 entire order?

11 A. It's a cancellation of that
12 line.

13 Q. What does that mean?

14 A. Of that order line, of that
15 item.

16 Q. So help me understand.

17 A. If they have any other product
18 on that order, right, it's a standard order
19 form. They can have a controlled substance
20 on the standard order. It could be cotton
21 balls or Q-tips. We're not going to hold
22 that.

23 Q. Sure.

24 A. Right?

25 So that's part of the order.

1 That part of the order would continue. It's
2 only that line item that would be held for
3 regulatory review, would be the controlled
4 substance lines. So then we would cancel or
5 cut the controlled substance line.

6 Q. Okay. And maybe you lost me.
7 Is that the end of the process?
8 If you cut it, it's done and gone?

9 A. That's correct.

10 Q. And who notifies the customer?
11 Because I'm assuming the customer may be
12 expecting --

13 A. It's systematic.

14 Q. So there's some automated way
15 that the customer is told, "Hey, this order
16 isn't going to be filled"?

17 A. That's correct, the sales
18 representative gets an e-mail once it has
19 already been decided.

20 Q. And you mentioned a certain
21 percentage within threshold.

22 Is there some sort of
23 percentage standard deviation that you guys
24 allow for?

25 A. There is -- if it makes sense,

1 if you've done all of the due diligence that
2 you need to do, if it has been decided that
3 you're going to release it, it still has to
4 be only the first event of the month, and it
5 would have to be within a percentage of what
6 that threshold would be. The analysts do not
7 have rights to just allow any order to go
8 through.

9 Q. Right.

10 And do you know what the
11 percentages were?

12 A. It varied.

13 Q. Like if how it calculated --

14 A. For a C-II, was no more than a
15 █ percent or a █ percent of what the
16 threshold could possibly be.

17 Q. Okay.

18 A. Uh-huh.

19 Q. And is there a different
20 percentage for, say, C-IIIs?

21 A. It could be. There was
22 never -- there was no percentage that was
23 over -- I don't remember -- █ percent. There
24 were -- different drug families had different
25 reasons or different percentages, yes.

1 Q. Sure.

2 So if a threshold order is cut,
3 that customer would not -- that drugstore or
4 pharmacy could not purchase anything else in
5 that drug family for the rest of that monthly
6 cycle?

7 A. That's correct.

8 Q. But they could purchase other
9 controlled substances during that monthly
10 cycle?

11 A. They could.

12 Q. Now, are you determining
13 that -- when that order reaches that
14 threshold and it's cut, are you determining
15 that that's a suspicious order?

16 A. Not necessarily.

17 Q. Is there some additional
18 evaluation it goes through to determine
19 whether it's a suspicious order and should be
20 reported to the DEA?

21 MS. WICHT: Object to the form.

22 THE WITNESS: Our policy was
23 that if you cut the line, you reported
24 it to the DEA.

25

1 QUESTIONS BY MR. FULLER:

2 Q. So and what you're supposed to
3 do is report suspicious orders to the DEA,
4 correct?

5 MS. WICHT: Object to the form.

6 THE WITNESS: That, I don't
7 have a supposed to do.

8 QUESTIONS BY MR. FULLER:

9 Q. Well, the regulation that we
10 just looked at --

11 A. Says that we have an obligation
12 to report suspicious orders.

13 Q. Okay.

14 A. And, yes.

15 Q. And when you cut it, you report
16 it to the DEA?

17 A. That's correct.

18 Q. Now, say the client, say
19 it's -- we'll make it easy. It's January,
20 and their cycle starts at January 1, so it
21 ends at the end of the month, right?

22 A. Great. Yes.

23 Q. So say we're at the 20th of the
24 month --

25 A. That's correct.

1 Q. -- and they exceed their
2 threshold. They have a, quote/unquote,
3 threshold event. That gets pulled from the
4 system and sent to you, correct?

5 A. That's correct.

6 Q. You do an analysis; you cut
7 that order. That means you cancel it?

8 A. Yes.

9 Q. Once you've canceled the order,
10 somebody sends notice to the DEA of this
11 order; is that right?

12 A. Yes.

13 Q. Or this event?

14 A. Yes.

15 Q. When we hit January -- or
16 excuse me, February 1, can they now order
17 from that drug family again?

18 A. Yes.

19 Q. Even though they may be
20 conducting suspicious activity, which we had
21 to report to the DEA, we're going to start
22 shipping again that same drug family to them?

23 MS. WICHT: Objection to the
24 form and foundation.

25

1 QUESTIONS BY MR. FULLER:

2 Q. Right?

3 A. That's correct.

4 Q. Okay.

5 A. Not all orders are suspicious
6 orders if they breach threshold.

7 Q. And you're not sure how the
8 threshold is actually calculated, right?

9 A. No, I'm not.

10 Q. Are you aware that it's
11 determined to what average is within a
12 certain class of trade than for such things
13 as OxyContin or hydromorphone? They multiply
14 that by three?

15 MS. WICHT: Object to the form
16 and lack of foundation.

17 THE WITNESS: No, I'm not aware
18 of any of that.

19 QUESTIONS BY MR. FULLER:

20 Q. Would you agree with me if a
21 threshold event is set, such that it's three
22 times the normal average, that's quite a
23 large number above and beyond what would be
24 average, right?

25 MS. WICHT: Object to the form

1 and foundation. Asked and answered.

2 THE WITNESS: I don't know what
3 average is, and I do not know how
4 those thresholds are calculated.

5 QUESTIONS BY MR. FULLER:

6 Q. Do you know if you guys have
7 a -- strike that.

8 Do you know if Cardinal has a
9 standard operating procedure on calculating
10 thresholds, or did during this time?

11 A. No, I don't.

12 Q. Do you know -- I'm sorry, go
13 ahead.

14 A. Thresholds were preset. I
15 don't have -- I did not create those, so that
16 standard operating procedure on how those
17 thresholds were actually created to begin
18 with, no, I have no idea.

19 Q. Do you know if Cardinal had a
20 standard operating procedure on dealing with
21 threshold events?

22 A. Yes.

23 Q. Do you know if they had a
24 standard operating procedure on onsite
25 investigations?

1 A. I can't honestly answer that.

2 I was not ever in that department.

3 Q. Okay. In the anti-diversion
4 department, did you deal with anything other
5 than threshold breaches?

6 MS. WICHT: Object to the form.

7 THE WITNESS: Can you ask that
8 question again, please?

9 QUESTIONS BY MR. FULLER:

10 Q. Yes, ma'am.

11 As part of the anti-diversion
12 department, did the department deal with
13 other issues other than threshold breaches?

14 MS. WICHT: Object to the form.

15 THE WITNESS: The department in
16 itself, yes.

17 QUESTIONS BY MR. FULLER:

18 Q. What other issues would the
19 department deal with, if you know?

20 A. New account setup.

21 Q. All right.

22 A. Right? I mean, those were --
23 that was part of the department and
24 investigations were part of the department.

25 Q. When you say "investigations,"

1 what types of other --

2 A. Site investigations.

3 Q. Now, what would cause a site
4 investigation?

5 A. If an analyst or -- during my
6 time when I was there, if I decided that I
7 needed more information to make a decision or
8 there was any kind of question in my mind of
9 what the pharmacy was ordering or why, I
10 could at any point in time ask for a site
11 investigation so that one of our
12 investigators from that team would go to the
13 pharmacy and request their drug usage, see
14 what was going on, actually put eyes inside
15 that pharmacy so that we would know what was
16 happening in there.

17 Q. So other than the information
18 you told us that you would initially pull,
19 which a lot of it was automatic --

20 A. Uh-huh.

21 Q. -- there was additional steps
22 that you could take if you chose to as a
23 diversion analyst or an anti-diversion
24 analyst?

25 A. Yes, there's documentation.

1 Yes.

2 Q. Okay. And one of those things
3 would be asking for a site investigation?

4 A. You could do that, yes.

5 Q. What else could you do?

6 A. Oh, as an analyst you could
7 change a threshold to zero so that they
8 couldn't get any more, if that's what you
9 deemed to be what was necessary. Could hold
10 the order and actually do nothing with it
11 until you got back the investigation. You
12 could just cut all orders and allow that
13 to -- until you got further information. You
14 could stop the sale of controlled substances
15 across the board if that's what it took to
16 get -- for the pharmacy to agree to having a
17 site inspection.

18 Q. Do the pharmacies actually have
19 to agree? Do you guys let them know?

20 A. Normally, yes.

21 Q. Okay.

22 A. Yes.

23 Q. So they'll know if someone is
24 going to come out and conduct an
25 investigation and assist in the process?

1 MS. WICHT: Object to the form.

2 THE WITNESS: I do not know if

3 that's always the way that happened.

4 I know that when I requested one,

5 there was somebody that went -- would

6 get that information, yes.

7 QUESTIONS BY MR. FULLER:

8 Q. And they -- you mentioned again
9 dispensing data. You could get another input
10 of dispensing data from the pharmacy?

11 A. That's correct.

12 Q. And could you also check the
13 data feeds?

14 A. That was part of the initial
15 information that was -- that's all in --
16 excuse me. That would be part of the Tableau
17 file.

18 Q. Okay. That initial file that's
19 automatically --

20 A. Yes.

21 Q. -- downloaded to you?

22 A. Yes.

23 Q. Got it.

24 Now, you mentioned you could
25 reduce thresholds to zero. Could you reduce

1 them to a certain number?

2 A. You could.

3 Q. Could you increase them?

4 A. You could. If it deemed

5 necessary or if you had the documentation

6 that made it -- that it would be appropriate

7 to do so.

8 Q. Now, you mentioned the

9 documentation several times.

10 A. Uh-huh.

11 Q. It sounds like the

12 documentation is a significant part of

13 explaining or showing what you're doing or

14 why you're doing it; is that fair?

15 A. That's correct, yes.

16 Q. So if we have a threshold

17 event, we should see documentation in that

18 client's diligence file as to the result of

19 that event, correct?

20 MS. WICHT: Object to the form.

21 THE WITNESS: To the result of

22 that threshold event? Yes.

23 QUESTIONS BY MR. FULLER:

24 Q. Or maybe the better term is the

25 result of the investigation: your

1 explanation as to what you did and why you
2 did it?

3 A. Yes, there would be information
4 that would state why or what made you do
5 exactly what you did, yes.

6 Q. Whether you cut it, whether you
7 increased the threshold, whether you
8 decreased the threshold, whether you
9 requested an onsite investigation, and I
10 guess potentially what the result of that
11 investigation was, so forth and so on; is
12 that fair?

13 A. That's fair.

14 MS. WICHT: Are you asking is
15 that -- all that information in one
16 particular place, Mike?

17 MR. FULLER: No, ma'am. I'm
18 asking the witness the questions.

19 Thank you.

20 MS. WICHT: Okay.

21 QUESTIONS BY MR. FULLER:

22 Q. You mentioned most of the time
23 the threshold order -- I shouldn't say
24 "most."

25 What is your recollection on

1 how often orders would simply be cut versus
2 released?

3 A. I don't have a percentage. The
4 recollection was more -- definitely more cuts
5 than releases, yes.

6 Q. Okay. And there would be a
7 record of a particular pharmacy's history
8 with threshold events and cuts and releases;
9 would that be right?

10 A. I would -- you could probably
11 ask for a report to be run, yes.

12 Q. Well, and let me ask it
13 differently.

14 So if you have a threshold
15 event, you would want to know the history on
16 that particular pharmacy or drugstore,
17 correct?

18 A. That's correct.

19 Q. Because one of the things I
20 think you mentioned when you had the ability
21 to increase to a certain percentage is
22 whether it was the first threshold event or
23 not?

24 A. Correct.

25 Q. Okay. So in this automated

1 file, would it give you any history as far as
2 recent increases or decreases of thresholds?

3 A. Yes, you could look in the
4 system to find those -- that information.

5 Q. Well, and I want to make sure
6 I'm clear.

7 Would it be in the automated
8 file that was sent to you when that threshold
9 event occurred, or would that be something
10 you would have to go looking for somewhere
11 else?

12 A. It would be in the case
13 management system.

14 Q. And is the case management
15 system different than that file that was
16 automatically sent to you?

17 MS. WICHT: Object to the form.

18 THE WITNESS: That question is
19 not necessarily a valid question. The
20 ordering system --

21 QUESTIONS BY MR. FULLER:

22 Q. Okay.

23 A. Let me help you with that one,
24 okay?

25 Q. I don't even know how to

1 respond to that.

2 A. I'm not quite sure how to
3 respond to your question is what I'm saying,
4 so --

5 Q. Yeah, I know. My terminology
6 may be off, so help me understand.

7 A. Okay. So in the case
8 management system -- so there's -- when the
9 automated system from the ordering platform
10 sends a case to -- a threshold event to the
11 case management system, there is a historical
12 run in the case management system.

13 Q. Say that one more time, I'm
14 sorry.

15 A. If you have -- so if you have a
16 threshold event that is going to be sent in,
17 all of that information into the case is what
18 it's called, okay?

19 Q. Okay.

20 A. If that case comes into the
21 automated system --

22 Q. Yes, ma'am.

23 A. -- okay, that's a case
24 management system.

25 Q. Okay.

1 A. In that case management system,
2 it would have a running toll of all of the
3 different cases for that customer.

4 Q. So you would see all the prior
5 history --

6 A. That's correct.

7 Q. -- when you open it up?

8 A. That's correct.

9 Q. So you could know whether they
10 had a threshold event last month, the last
11 six months, whatever the case may be?

12 A. That's correct.

13 Q. Then you would be able to
14 determine whether the threshold, you know --
15 wow, you know, we just recently bumped their
16 threshold down. Maybe that's why they're
17 having a threshold event.

18 A. Well, you could, yes.

19 Q. Or we've continuously upped
20 them, there may be something going on here?

21 A. Well, we didn't continuously up
22 thresholds.

23 MS. WICHT: Object to the form.

24 QUESTIONS BY MR. FULLER:

25 Q. Never?

1 A. There would be reason for such.

2 Q. And that reason would be
3 documented in the diligence file for that
4 client?

5 A. That's correct. To my
6 knowledge, yes.

7 Q. Did you ever receive any
8 training as far as threshold events or
9 suspicious orders or anti-diversion from the
10 DEA?

11 A. No.

12 Q. What about the organization,
13 what was it, the HDMA?

14 A. No, I did not.

15 Q. Do you know what the HDMA is?

16 A. I've heard the term. To be
17 honest, I don't even know what the call
18 letters stand for.

19 Q. So the only training you
20 received related to this anti-diversion
21 department position was internal training; is
22 that correct?

23 A. That's correct. I would
24 have -- I entrusted that those that were my
25 direct reports and leaders in our department

1 would have received that information.

2 I was not at a level to attend
3 DEA meetings or HDMA meetings or any other of
4 the governing bodies' meetings, so that would
5 have definitely come from our leadership down
6 to us, yes.

7 Q. Sorry about that.

8 Let me ask: Have you ever
9 heard of highlight reports?

10 A. Not that I recall.

11 MR. FULLER: All right. Evan,
12 2685.

13 (Cardinal-Justus Exhibit 3
14 marked for identification.)

15 MR. FULLER: Yeah, I'm sorry,
16 that's Exhibit Number 3 for the
17 record.

18 QUESTIONS BY MR. FULLER:

19 Q. And, Ms. Justus, have you ever
20 seen this document before?

21 A. Yes.

22 Q. And what is it, or what is your
23 understanding of what it is?

24 A. It's an SOP detecting or
25 reporting suspicious orders in responding to

1 the threshold events.

2 Q. And by SOP --

3 A. Standard operating procedure.

4 Q. All right. And if it's okay
5 with you, when either one of us use it, we'll
6 know what the other one's talking about,
7 right?

8 A. Sounds great.

9 Q. Okay. And it's talking about
10 not just suspicious orders, but also
11 detecting and reporting -- can you read the
12 purpose?

13 MR. FULLER: If you can
14 highlight that section for me, Evan.
15 Go ahead and highlight the section for
16 me, the whole thing.

17 And then if you underline...

18 QUESTIONS BY MR. FULLER:

19 Q. It talks about the quality and
20 regulatory affairs. That would be your
21 department; is that right?

22 A. Yes.

23 Q. Okay. Section on responding,
24 detecting and reporting suspicious orders,
25 and processing and documenting and making

1 judgments about threshold events.

2 Is that what your department
3 did?

4 A. Yes.

5 Q. Okay. Now, you and I talked a
6 little bit about suspicious orders and what
7 they were.

8 One thing that you indicated to
9 us was orders of unusual size; is that right?

10 A. That's correct. That's one
11 factor.

12 Q. Well, is it one factor?
13 Explain what you mean by that.

14 A. It is one factor.

15 Q. Can you have a suspicious order
16 that the only thing suspicious about it is
17 unusual size?

18 A. I would -- not under normal
19 circumstances. I would take everything into
20 consideration.

21 Q. What about abnormal pattern?
22 Could you have a suspicious event that was
23 just based off abnormal pattern?

24 A. I would take --

25 MS. WICHT: Object to the form.

1 THE WITNESS: I would take all
2 into consideration.

3 QUESTIONS BY MR. FULLER:

4 Q. So you wouldn't necessarily
5 report something that was just abnormal based
6 on the size of the order?

7 A. If I cut the order, I would.

8 Q. Okay. So you might report
9 something if it's just based on pure size,
10 pure number of pills, volume?

11 MS. WICHT: Object to the form.

12 THE WITNESS: If I deemed that
13 it was something that should be cut
14 from a threshold event, then I would
15 report it. That not necessarily is
16 just on size alone.

17 QUESTIONS BY MR. FULLER:

18 Q. And there's where we're having
19 a disconnect. I'm not saying it's
20 necessarily.

21 A. You asked me if it was just on
22 the size; is that correct?

23 Q. I said can there be a reporting
24 of a -- can a suspicious order be based just
25 on size?

1 A. It could.

2 Q. So if I'm, you know, Larry's
3 Drive-Thru pharmacy, I've only been ordering
4 10,000 oxy 30s a month for the past year and
5 all the sudden I order 100,000, everything
6 else looks fine, but I order 100,000 oxy 30s,
7 that's going to throw up some red flags,
8 right?

9 A. Yes.

10 MS. WICHT: Object to the form.

11 QUESTIONS BY MR. FULLER:

12 Q. You're probably going to report
13 me, aren't you?

14 MS. WICHT: Object to the form.

15 THE WITNESS: I would cut that
16 order.

17 QUESTIONS BY MR. FULLER:

18 Q. So you would have to report me?

19 A. Therefore, I would report,
20 that's correct.

21 Q. Okay. So if you go to -- make
22 sure I've got the right page here -- page 4,
23 the one that has orders of unusual size up at
24 the top of it.

25 Do you see that, 6.1.5?

1 A. I see that.

2 Q. Tell us, what does Cardinal say
3 orders of unusual size are?

4 MS. WICHT: Object to the form.

5 QUESTIONS BY MR. FULLER:

6 Q. Read that for us, Ms. Justus.

7 A. Actually, kind of revamping on
8 the entire SOP. If you -- it's been a while
9 since I've had to read this.

10 Q. Sure.

11 A. Okay. I've read this section
12 completely, so, I'm sorry, could you please
13 repeat your question?

14 Q. Yes, ma'am.

15 A. Okay.

16 Q. Cardinal has determined at
17 least during this time frame that orders of
18 unusual size are significantly larger than
19 the orders normally placed by the customer or
20 by customers that have a size and type of
21 business that is similar to the ordering
22 customer's business; is that right?

23 A. That is what this says, yes.

24 Q. And when we're talking about
25 ordering customers, generally speaking, we're

1 talking about drugstores and pharmacies,
2 correct?

3 A. We do have other customers, but
4 in this case I would agree that, yeah, it's
5 going to be a pharmacy.

6 Q. And when we're -- based on this
7 policy, when we're comparing orders of
8 unusual size, we need to be able to compare
9 our pharmacy, our drugstore, to like-size
10 pharmacy and drugstores elsewhere, correct?

11 A. That's correct, which is how
12 the original thresholds would have been set.

13 Q. Is based on an average, right?

14 MS. WICHT: Object to the form.

15 THE WITNESS: I don't know --

16 MS. WICHT: Foundation and
17 mischaracterizes her testimony.

18 QUESTIONS BY MR. FULLER:

19 Q. All right. So -- okay. Well,
20 then explain to me what you -- what you meant
21 when you just said that that's how our
22 thresholds are set.

23 A. At this point in time -- or at
24 that point in time, I'm sorry -- I don't know
25 what they do today, but in that point in

1 time, those thresholds would have already
2 been in place. That would have been
3 through -- you have to realize and remember
4 that the new account setup, right, that's
5 where the actual original thresholds were
6 set. That categorizes in that matrix that
7 you were trying to tell me -- the matrix that
8 you drew out. That's what I'm saying, you
9 can't specifically say which ones or how
10 those thresholds were actually calculated. I
11 don't have that information. I don't know if
12 an average was used. I don't know if it was
13 a percentage. I don't know how the
14 pharmacist calculated or came up with those
15 thresholds.

16 Q. Okay. Well, we'll look at that
17 in a second.

18 A. Okay.

19 Q. So my question to you is:
20 Based on this policy and procedure, we have
21 to be able to compare like-pharmacies --

22 A. And we would have, yes.

23 Q. -- and -- well, let me
24 finish -- and like-drugstores to determine
25 what's an unusual size, correct?

1 A. It would be the purchasing
2 pattern as well of that specific pharmacy.

3 Q. So under this unusual -- orders
4 of unusual size definition, where does it say
5 purchasing pattern?

6 A. The orders normally placed is
7 how they purchase --

8 Q. Or --

9 A. -- by the customer --

10 Q. Or? Keep reading.

11 A. "Or" -- it's an "or" -- "by
12 customers that have a size and type of
13 business that is similar to the ordering
14 customer's business."

15 It's "or." It's not specific
16 to --

17 Q. Right.

18 And so what I want to make sure
19 of is if we have a customer that's already
20 out of whack, meaning ordering significant
21 amounts above what other normal pharmacies,
22 size and type, are ordering, that that's
23 going to get flagged, right?

24 MS. WICHT: Object to the form.

25 You can answer if you

1 understand the question.

2 THE WITNESS: I would like you
3 to clarify what you just said is out
4 of whack.

5 QUESTIONS BY MR. FULLER:

6 Q. Ordering too many pills.

7 A. They would be having threshold
8 events.

9 Q. We assume they'd be having
10 threshold events.

11 This policy says that you need
12 to compare them to their own ordering
13 patterns in the past, right?

14 A. Correct.

15 MS. WICHT: Object to the form.

16 QUESTIONS BY MR. FULLER:

17 Q. And others -- other customers,
18 other drugstores and pharmacies, that have a
19 size and type of business that is similar to
20 that customer's.

21 Isn't that what the policy
22 says?

23 MS. WICHT: Object to the form.

24 THE WITNESS: It does.

25

1 QUESTIONS BY MR. FULLER:

2 Q. Okay. Do you believe you did
3 this at Cardinal during your time there?

4 A. I don't believe that I -- that
5 I would have used anybody else's purchasing
6 patterns to decide whether or not it was for
7 one.

8 Q. So you wouldn't have pulled
9 other like-sized pharmacies?

10 A. That was not -- no. So
11 that's where I -- to pull all of that data, I
12 am not qualified to pull all of that data.
13 That data would be pulled from the
14 statisticians on the team that would be able
15 to give more information on that.

16 Q. So --

17 A. That's not something that -- we
18 could ask to have that done, but that's not
19 something that we utilized.

20 We utilized by customer the
21 information that was in front of us until we
22 needed to go further, yes.

23 Q. Do you ever recall asking the
24 statisticians to pull like-customers'
25 ordering patterns to be able to compare when

1 you were evaluating a threshold event?

2 A. I don't remember if I did.

3 Q. Okay.

4 A. I don't.

5 Q. You believe that's something
6 that you could have done?

7 A. Yes.

8 Q. And if you did it, we would see
9 that documented as part of your investigative
10 process, right?

11 A. I could have documented that
12 reports were used.

13 Q. I mean, if you went to the
14 trouble of having the statisticians pull a
15 bunch of other like-pharmacy information, you
16 would probably make a note of that, wouldn't
17 you?

18 MS. WICHT: Object to the form.

19 THE WITNESS: I may or may not
20 have.

21 QUESTIONS BY MR. FULLER:

22 Q. When you send out investigators
23 to the pharmacy to do an onsite inspection,
24 would you have made a note of that?

25 A. There would have had to be a

1 request made, yes.

2 Q. There would also have to be a
3 request made to have the statistical
4 information pulled for other like-sized
5 customers?

6 A. No. No, there wouldn't have to
7 be.

8 Q. So how would you do it? Just
9 go down the hall and say, "Hey" --

10 A. Absolutely.

11 Q. -- "pull this information for
12 me"?

13 A. Sure, you can do that. If I
14 wanted to put it in an e-mail or if they
15 weren't at their desk or needed something, of
16 course, then it would be that way. That's
17 what I'm saying: It could be documented; it
18 may not be actually documented.

19 Q. Let's go down to orders of
20 unusual frequency.

21 Now, Ms. Justus, this
22 requirement, at least according to the
23 policy, has the same requirement that we
24 analyze it with: that customer's prior
25 orders as well as other drugstores and

1 pharmacies that have the same size and
2 business type.

3 Would that normally be done at
4 Cardinal?

5 A. Again, that's a poor
6 statement --

7 MS. WICHT: Object to the form.

8 THE WITNESS: That is not
9 something that -- that -- if we saw a
10 trend, possibly. There's no --
11 there's no reason to have to pull that
12 data on every threshold event. As
13 long as we were doing the one or the
14 other, we were following our
15 procedures.

16 QUESTIONS BY MR. FULLER:

17 Q. Okay. And if you're only
18 looking at that one customer, you're not
19 going to be able to tell if they are
20 significantly different from others of that
21 same size and type of business, are you?

22 MS. WICHT: Object to the form.
23 Foundation. Mischaracterizes her
24 prior testimony.

25 THE WITNESS: Size would have

1 been established when the original
2 thresholds had been set.

3 QUESTIONS BY MR. FULLER:

4 Q. But, ma'am, you haven't
5 answered my question.

6 A. I'm sorry, can you please
7 repeat the question?

8 Q. Yes, ma'am.

9 My question is: If we're only
10 looking at the history with CVS 1515, we're
11 not going to know if their ordering patterns
12 or their size of orders are out of place for
13 other customers, other drugstores, that are
14 of the same size and type, are we?

15 MS. WICHT: Objection. Asked
16 and answered.

17 THE WITNESS: Again, it's an
18 "or" statement. It doesn't have to be
19 done on every threshold event.

20 QUESTIONS BY MR. FULLER:

21 Q. Ma'am, I'm not asking you if
22 it's an and/or an or, or that you have to do
23 both or not. I'm simply asking you: We're
24 not going to know how they compare with the
25 others unless we pull them?

1 MS. WICHT: Objection to the
2 form.

3 THE WITNESS: So pulling the
4 data is not done; we would have to
5 have it requested to be done. And,
6 yes, there are times that that could
7 have been done. There are times that
8 it is not necessarily needed.

9 QUESTIONS BY MR. FULLER:

10 Q. I understand that, ma'am.

11 My simple question is: If we
12 don't pull it, we can't make -- or if we
13 don't request it to be pulled, we can't make
14 that comparison with other like-businesses,
15 correct?

16 MS. WICHT: Object to the form.

17 THE WITNESS: I guess I do not
18 see where the question is. The
19 likeness of --

20 QUESTIONS BY MR. FULLER:

21 Q. So hold on.

22 A. -- the types of pharmacies
23 would have already been concluded, and we
24 would have already had that information.

25 Q. Hold on.

1 A. Okay.

2 Q. If I'm in an apple orchard and
3 I'm picking apples, okay?

4 A. Uh-huh.

5 Q. And I'm only picking apples
6 from one tree, and all I have in my bushel is
7 apples from one tree, I can't say those
8 apples are average compared to all the other
9 apples in the orchard, can I, because I
10 haven't picked any other apples from the
11 other orchard trees?

12 Would you agree with that?

13 MS. WICHT: Object to the
14 incomplete hypothetical.

15 THE WITNESS: On a hypothetical
16 question, I would -- I'll agree with
17 that.

18 QUESTIONS BY MR. FULLER:

19 Q. Okay. Now, let's just take
20 that to what we're doing as an analyst.

21 A. Uh-huh.

22 Q. If I'm looking at a pharmacy,
23 Mike's Pharmacy, and I'm just analyzing the
24 size of orders related to my prior purchases,
25 the frequency and pattern related to my prior

1 purchases -- we're not comparing it to
2 others. I'm not saying that you had to every
3 time. I'm just saying we can't make that
4 comparison unless we have that information
5 pulled.

6 Would you agree with that?

7 MS. WICHT: Object to the form.

8 Mischaracterizes her prior testimony.

9 THE WITNESS: I will say that
10 it could.

11 QUESTIONS BY MR. FULLER:

12 Q. Could what?

13 A. It could make a difference. Or
14 you can't -- you not necessarily could
15 compare what your question is as far as
16 different pharmacies.

17 Q. Ma'am, I'm not even asking if
18 it could make a difference. Okay?

19 I'm just asking: You can't
20 compare it if you don't have the information
21 next to you or you don't have somebody to
22 pull it, right?

23 MS. WICHT: Object to the form.

24 Foundation.

25 THE WITNESS: There are other

1 tools that you use --

2 QUESTIONS BY MR. FULLER:

3 Q. I'm not saying --

4 A. I mean, I'm not saying that you
5 don't compare, that we didn't compare.

6 Q. And I'm not saying there aren't
7 other tools. You've told us about all the
8 other tools.

9 A. I know.

10 Q. I'm just asking you: You can't
11 compare it unless you have it pulled to
12 compare it, correct?

13 MS. WICHT: Object to the form.

14 THE WITNESS: Correct.

15 QUESTIONS BY MR. FULLER:

16 Q. Okay. This policy and
17 procedure doesn't say it, but would this be a
18 policy and procedure that was applicable to
19 the anti-diversion department?

20 A. This -- to the entire
21 department?

22 Q. No, ma'am, just to the
23 department in general.

24 A. This would be a standard
25 operating procedure for the analysts in the

1 anti-diversion department.

2 MR. FULLER: And for the
3 record, I've just marked and provided
4 the witness Exhibit Number 4. And
5 it's 2008.

6 (Cardinal-Justus Exhibit 4
7 marked for identification.)

8 QUESTIONS BY MR. FULLER:

9 Q. Ma'am, have you ever seen this
10 document?

11 A. No.

12 Q. Okay. And it appears, if you
13 look at the top, it was a policy and
14 procedure that was entered in December 22nd
15 of '08; is that right?

16 A. That's what I see, yes.

17 Q. And it has a previous issue, it
18 says "new."

19 Do you know what that means?

20 A. No.

21 Q. Okay. Can you tell by looking
22 at this policy and procedure who it pertains
23 to?

24 A. No.

25 Q. Okay. Well, let's start with

1 the title. It says, "Sales," right?

2 A. It does.

3 Q. And you guys did have a sales
4 department or sales team?

5 A. That's correct.

6 Q. Okay. It says, "Anti-diversion
7 alert signals."

8 Do you see that there?

9 A. I do.

10 Q. And if you look at the purpose,
11 it says, "The Federal Controlled Substances
12 Act requires pharmaceutical wholesalers to
13 maintain effective controls to guard against
14 the diversion of controlled substances."

15 You don't disagree to that, do
16 you?

17 A. No, I do not disagree with
18 that.

19 Q. Then it says, "This" -- excuse
20 me. "As part of this requirement, Cardinal
21 has developed a suspicious order monitoring
22 program to identify orders of unusual size,
23 pattern and frequency."

24 Based on your knowledge, that
25 would be accurate, too, right?

1 A. Yes.

2 Q. Now, you don't know when they
3 first created that suspicious order and
4 monitoring program, or do you?

5 A. No, I don't.

6 Q. Okay. It says, "This policy
7 provides process requirements for the
8 continuous monitoring and reporting of
9 customer order activities by sales during the
10 execution of the SOM program."

11 And it says "by sales." So can
12 we agree that this policy and procedure would
13 apply to the sales team or the sales
14 personnel?

15 A. Yes.

16 Q. Okay. Now, I want to go to the
17 third page.

18 A. Wait a minute. I don't know
19 who this does -- as I look at this document,
20 this came from transportation and warehouse
21 operations. That does not say sales at all.

22 Q. It says, "health care supply
23 chain services."

24 A. It says, "transportation and
25 warehouse operations."

1 Q. And then it also says,
2 "Reporting customer activities by sales
3 during the execution of the SOM program."

4 A. It does -- I see that, yes.

5 Q. If you read the scope, what
6 does it tell us it applies to?

7 It says, "This policy applies
8 to quality and regulatory affairs." That
9 would have been you during this time frame,
10 right?

11 A. Not during this time frame. I
12 mean, I was an admin.

13 Q. But you were in the department?

14 A. Yes.

15 Q. Okay. Supply chain integrity,
16 was that a different department?

17 A. No. I mean, that was -- it was
18 kind of all encompassed.

19 Q. Okay. And then Cardinal sales,
20 which would be the sales force, right?

21 A. Correct.

22 Q. Okay. Now, of interest, do you
23 know a Tom -- is it DeGemmis? DeGemmis?

24 MS. WICHT: Are you reading
25 that name somewhere?

1 MR. FULLER: Well, I'm trying.

2 Not doing a very good job.

3 MS. WICHT: No. Can you just
4 point us to where it is? Maybe we can
5 see how it's spelled.

6 MR. FULLER: The last page.

7 MS. WICHT: Okay.

8 MR. FULLER: There's an e-mail,
9 and put it into this policy and
10 procedure as an attachment.

11 And, Evan, if you could blow up
12 the -- there you go.

13 QUESTIONS BY MR. FULLER:

14 Q. Who is Tom?

15 A. Tom DeGemmis.

16 Q. DeGemmis?

17 A. Uh-huh.

18 Q. Wow, I butchered that.

19 A. Uh-huh.

20 Q. You didn't have to agree with
21 me on that.

22 A. I apologize.

23 Well, I couldn't find it,
24 sorry.

25 MS. WICHT: So what's the

1 question?

2 THE WITNESS: Who was he? Was
3 that the question?

4 QUESTIONS BY MR. FULLER:

5 Q. Yes, ma'am.

6 I mean, it says senior VP, but
7 I don't know for what.

8 A. Correct. I would know not his
9 full title. I don't know.

10 Q. Okay. And that's fair.

11 A. I don't.

12 Q. It says here that -- and this
13 is an e-mail, at least it indicates, from
14 Tom, right?

15 A. It does.

16 Q. And it indicates it's going to
17 who? Retail independent sales --

18 A. Sales professionals.

19 Q. -- professionals?

20 A. Yes.

21 Q. Who would that encompass, if
22 you know?

23 A. I wouldn't know specifically.

24 Q. Well, we know retail
25 independents are non-chains, correct?

1 A. Correct.

2 Q. And we know sales professionals
3 are our salespeople?

4 A. Correct.

5 Q. Okay. So it's probably the
6 salespeople for the retail independents,
7 fair?

8 A. Fair.

9 Q. And it says, "We have heard
10 consistent feedback that more tools are
11 needed to perform regular customer data
12 checks. In response to this feedback, a new
13 report has been created, which we have
14 unofficially been calling the highlight
15 report."

16 Now, ma'am, have you ever heard
17 of the highlight report?

18 A. No.

19 Q. Okay. It says, "The highlight
20 report has been designed to give sales a
21 monthly snapshot of each customer's monthly
22 total pharmaceutical sales, six-month
23 purchase history and the percentage of
24 controlled sales to total RX sales."

25 And when it says "RX sales," do

1 you know what that means?

2 A. Prescription.

3 Q. Okay. But potentially
4 noncontrolled as well?

5 A. Correct.

6 Q. Okay. Now, let me ask you:
7 Was that also something that you would look
8 at when you were doing your due diligence on
9 certain threshold events, comparing
10 controlled substance sales versus
11 noncontrolled sales?

12 A. Yes.

13 Q. Why is that?

14 A. Because Cardinal takes this
15 very seriously, and, therefore, we would not
16 just have a customer that was just purchasing
17 controlled substances. We would need to
18 ensure that it was -- that they were ordering
19 all of their products from Cardinal, not just
20 controls.

21 Q. Now, let's talk about that for
22 a second, because we would also want to make
23 sure they're not double-dipping on
24 distributors as well, right?

25 MS. WICHT: Object to the form.

1 THE WITNESS: Yes. I mean,
2 there is -- there is cause to want to
3 be a primary.

4 QUESTIONS BY MR. FULLER:

5 Q. Well, one, because --

6 A. Right.

7 Q. -- as you're running a
8 business, you want to be the one providing
9 your product to them --

10 A. Absolutely.

11 Q. -- your service to them?

12 A. Yes.

13 Q. No question.

14 A. Right.

15 Q. Additionally, we would want
16 know, would we not, as the anti-diversion
17 group, if they're buying controlled
18 substances from somebody else as well,
19 correct?

20 A. Correct.

21 Q. Do we, when we're doing our
22 analysis, have that information?

23 A. We have information, because on
24 the new account setup questionnaire there is
25 a question that was asked at that time

1 whether or not that they were planning on
2 being -- purchasing from multiple
3 distributors or not, yes.

4 Q. And there we're trusting them
5 to provide the right answer --

6 A. That's correct.

7 Q. -- the honest answer, I guess?

8 A. That's correct.

9 Q. Do we have that information any
10 other way?

11 MS. WICHT: Object to the form.

12 THE WITNESS: I mean, if
13 sales -- our sales reps are our front
14 line.

15 QUESTIONS BY MR. FULLER:

16 Q. Yes, ma'am.

17 A. So we would rely upon sales to
18 give us that information.

19 Q. So our salespeople should know
20 if they're ordering from other distributors
21 as well?

22 A. That's correct.

23 MS. WICHT: Object to the form.

24 QUESTIONS BY MR. FULLER:

25 Q. Okay. And how about our

1 pharmacy data reports? Can that help us
2 determine if they're ordering from other
3 distributors?

4 A. It can if you have the number
5 of scripts that they fill on a monthly basis
6 and compare to what they have purchased from
7 Cardinal Health. That can identify if
8 they're purchasing all products from Cardinal
9 Health.

10 Q. And we can tell by number of
11 scripts or the number of pills going out as
12 well, correct?

13 Because if you're only shipping
14 them 5,000 oxy 30s and they've got 20,000
15 going out the door, there's a good chance
16 they're getting the other 15 from someone
17 else. You would agree with me, right?

18 MS. WICHT: Objection to the
19 form.

20 THE WITNESS: That should
21 definitely be what was happening, yes.

22 QUESTIONS BY MR. FULLER:

23 Q. Okay. Because the only places
24 they can get these, these controlled
25 substances, is from other wholesale

1 distributors, correct?

2 A. To my knowledge, yes.

3 Q. Okay. Well, I mean, at least
4 that's the way the law is set up; you would
5 agree with that?

6 A. I agree with that.

7 Q. Now, whether they're going out
8 on the street and buying them from somebody
9 else, that's a whole 'nother story, correct?

10 A. That would be correct.

11 Q. Okay. So Mr. -- and help me
12 pronounce his name again.

13 A. DeGemmis.

14 Q. DeGemmis.

15 -- sets out this watch list and
16 these flags.

17 Do you see that below?

18 A. I do see it.

19 Q. So there's a watch list for
20 5 percent increase of controlled substances,
21 List I chemicals. There's a yellow flag for
22 a 10 percent increase of controlled
23 substances, List I chemicals. There's a red
24 flag for 15 percent increase in controlled
25 substances, List I chemicals.

1 Did you know about this process
2 when you were in the anti-diversion
3 department?

4 A. No, sir, I did not.

5 Q. So you would have never been
6 provided with any of these yellow, red or
7 watch list flags?

8 A. Sales --

9 MS. WICHT: Object to the form.

10 THE WITNESS: No, we did not.

11 No. In the anti-diversion department,
12 we did not cross with sales to that
13 kind of a degree. We would ask them
14 certain questions.

15 QUESTIONS BY MR. FULLER:

16 Q. Yes, ma'am.

17 A. We would receive certain
18 answers. We were not provided with any of
19 this type of detail as to what the sales
20 department was doing. There's -- no, I've
21 never seen this.

22 Q. Well, and I'm not asking
23 necessarily whether you were provided with
24 the detail.

25 A. Right, but I have no idea --

1 no, I did not know that they had this, no.

2 Q. But yet you guys are included
3 as to the potential scope of this policy and
4 procedure, aren't you?

5 It says, "Quality and
6 regulatory affairs as well as supply chain
7 integrity."

8 That was your department,
9 correct?

10 A. This -- again, I don't know
11 where this came from. This --

12 Q. Well, it came from Cardinal.

13 A. This is -- we both agree this
14 is a sales standard operating procedure.
15 This is not a standard operating procedure
16 that I am familiar with. I did not read
17 this. I did not follow this. So, no, I
18 don't know what this is.

19 Q. And let me help you here. If
20 somebody in your department had this
21 information, certainly it wasn't given to
22 you?

23 A. That's correct.

24 MR. FULLER: Okay. All right.

25 We've been going over an hour now, so

1 I think I made up for a little bit of
2 lost time, but why don't we take a
3 break. And being that it's noon, why
4 don't we take our lunch, if that's
5 okay with you.

6 THE WITNESS: That's fine.

7 VIDEOGRAPHER: We're going off
8 the record. The time is 11:56.

9 (Off the record at 11:56 a.m.)

10 VIDEOGRAPHER: We're going back
11 on the record. Beginning of Media
12 File Number 3. The time is 1:04.

13 QUESTIONS BY MR. FULLER:

14 Q. Ms. Justus, you've currently
15 been working for Cardinal approximately
16 15 years, correct?

17 A. That's correct.

18 Q. And in 2007, thereabouts, you
19 were transferred into the anti-diversion
20 department; is that fair?

21 A. That's fair.

22 Q. Initially as an administrative
23 assistant and then as the new client
24 specialist?

25 A. Yes.

1 Q. You held that position as new
2 client specialist, reviewing accounts for
3 potential pharmacies and drugstores as well
4 as others wanting to do business with
5 Cardinal?

6 A. Yes.

7 Q. And then approximately in 2012,
8 you switched over to a senior analyst for
9 quality and regulatory, which involved
10 reviewing thresholds that were hit by some of
11 these customers, these drugstores and
12 pharmacies; is that right?

13 A. Yes.

14 MS. WICHT: Objection to the
15 form.

16 QUESTIONS BY MR. FULLER:

17 Q. And then in 2014 you were
18 promoted to senior consultant for strategic
19 planning and execution.

20 Did I get that term right?

21 A. Yes, you did.

22 Q. And what you've been working on
23 the past four years, with three years to go,
24 is a software platform to integrate the
25 purchasing process across all of Cardinal's

1 different departments, if you will?

2 A. That's correct.

3 Q. Okay. Now, we talked a lot
4 about these controlled substances, and you've
5 told us what specific areas you were over.
6 And those included the Aurora, Lakeland,
7 Swedesboro, Wheeling and Knoxville
8 distribution centers during that time frame
9 of 2012 to 2014; is that accurate?

10 A. That's correct.

11 Q. Okay. If I wanted to chat with
12 the person most knowledgeable as to the
13 distribution of controlled substances and
14 suspicious orders related to Cuyahoga County,
15 who would I need to speak with?

16 MS. WICHT: Objection to the
17 form.

18 THE WITNESS: As an overall
19 measuring what -- -- I mean, depending
20 upon --

21 QUESTIONS BY MR. FULLER:

22 Q. Focusing on suspicious orders.

23 A. Threshold events? It would be
24 myself, would be one, I guess.

25 Q. Now, are you going to limit

1 yourself to the time of 2010 to 2014?

2 Because that's the only time you were over
3 that issue there, correct?

4 A. That's correct.

5 Q. Okay. What about the city
6 of -- strike that.

7 Who else would have knowledge
8 about the threshold events -- or excuse me,
9 the suspicious orders into Cuyahoga County?

10 MS. WICHT: Object to the form.

11 THE WITNESS: I guess any of my
12 direct reports all the way -- it
13 wasn't hidden. It was -- if there was
14 anything, it would have been my direct
15 report was -- during new account setup
16 would have been Nick Rausch. He
17 reported to Michael Moné.

18 QUESTIONS BY MR. FULLER:

19 Q. Nick Rausch?

20 A. That's correct.

21 Q. He reported to Mr. Moné?

22 A. Yes.

23 Q. Do you know who Mr. Moné'
24 reported to?

25 A. Let's see. In -- it would have

1 been Gilberto Quintero.

2 Q. Quintero? Help me out with the
3 last name.

4 A. Q-u-i-n-t-e-r-o.

5 Q. Now let me ask: What was
6 Mr. Moné's position?

7 A. Vice president of supply chain
8 integrity or anti-diversion.

9 Q. How about Mr. Gilberto? Sorry,
10 I'm not going to try the last name. It will
11 end badly.

12 A. It's okay.

13 He was the SVP. So he was a
14 senior vice president of -- I don't remember
15 his actual title, but he was over that
16 department, yes.

17 Q. Okay. And he was above
18 Mr. Moné?

19 A. Yes.

20 Q. Now, if we asked to speak with
21 the person most knowledgeable related to
22 these same issues -- well, strike that.

23 If I asked you to speak with
24 the person from Cardinal most knowledgeable
25 on suspicious orders for the City of

1 Cleveland, who would I need to speak with?

2 MS. WICHT: Object to the form.

3 THE WITNESS: It would be the
4 same.

5 QUESTIONS BY MR. FULLER:

6 Q. So it would be Mr. Rausch,
7 Mr. Moné and then Mr. --

8 A. Quintero, yes.

9 Q. Mr. Quintero?

10 A. Uh-huh.

11 Q. Ms. Justus, if I wanted to
12 speak with the person with Cardinal most
13 knowledgeable to suspicious orders for the
14 City of Akron, Ohio, who would I need to
15 speak with?

16 MS. WICHT: Same objection.

17 THE WITNESS: Again, it's going
18 to be the same.

19 QUESTIONS BY MR. FULLER:

20 Q. Again, that would be
21 Mr. Rausch, Mr. Moné and Mr. Quintero?

22 A. Yes.

23 Q. Did I get that name right?

24 A. Uh-huh, you did.

25 Q. If I wanted to speak with the

1 person most knowledgeable as to the
2 suspicious orders in Summit County, would I
3 seek to speak with Mr. Moné, Mr. Rausch and
4 Mr. Quintero?

5 A. Yes.

6 MS. WICHT: Same objection.

7 QUESTIONS BY MR. FULLER:

8 Q. When you were transferred into
9 the anti-diversion group, wasn't the group
10 being restructured or rebuilt at that time?

11 A. It was. I don't know what it
12 was before.

13 Q. Do you know if the
14 anti-diversion group existed before?

15 A. I don't. I don't know what it
16 was called, who was in it, no.

17 Q. Or whether they even had one?

18 A. I don't have any idea.

19 Q. You and -- and I apologize.
20 Who was the gentleman that brought you with
21 him?

22 A. Mark Hartman.

23 Q. Hartman?

24 A. Yes.

25 Q. Mr. Hartman.

1 You and Mr. Hartman went over
2 there and sort of revamped or developed the
3 anti-diversion department as you went to know
4 it, correct?

5 MS. WICHT: Object to the form.
6 Foundation. It mischaracterizes.

7 THE WITNESS: It wouldn't have
8 been we. It would have been
9 Mr. Hartman. I was an admin.

10 QUESTIONS BY MR. FULLER:

11 Q. You were helping him?

12 A. Well, I was an admin.

13 Q. Right?

14 A. There's not a whole lot of
15 decision-making when you're an admin.

16 Q. Yeah, but you're the support
17 behind the man, right? No.

18 A. No. Mr. Hartman can do -- I
19 was an admin assistant. That's it.

20 Q. So when Mr. Hartman went over
21 there, he went over there to build this
22 anti-diversion department, correct?

23 MS. WICHT: Object to the form.

24 THE WITNESS: I don't know --

25 MS. WICHT: Mischaracterizes

1 prior testimony.

2 THE WITNESS: -- why he was
3 hired.

4 QUESTIONS BY MR. FULLER:

5 Q. Well, you, I think, agreed with
6 me that you went over to revamp, redo,
7 build --

8 MS. WICHT: Object to the form.

9 MR. FULLER: You going to let
10 me finish my question?

11 MS. WICHT: Sure.

12 MR. FULLER: Thank you.

13 QUESTIONS BY MR. FULLER:

14 Q. Isn't that what you testified
15 to?

16 MS. WICHT: Object to the form.
17 Mischaracterizes.

18 THE WITNESS: I was asked to
19 come with Mark on his new role in the
20 department of anti-diversion, yes.

21 QUESTIONS BY MR. FULLER:

22 Q. Okay. And do you know whether
23 there was a new client specialist in that
24 department when you arrived?

25 A. Yes.

1 Q. Was there a senior analyst in
2 that department when you --

3 A. I don't know that.

4 Q. You also mentioned earlier that
5 there were people that were running these
6 thresholds, running these numbers, creating
7 these -- the matrix that we talked about
8 earlier, right?

9 Are there people that don't do
10 that?

11 A. There are pharmacists that do
12 that, yes.

13 Q. Okay. Who are the pharmacists
14 that were doing that when you were there in
15 the anti-diversion department?

16 A. At the time that I was there,
17 it was Michael Moné. It was Christopher
18 Forst.

19 Q. You say Forst or Horst?

20 A. Forst, F-o-r-s-t.

21 Q. That's Christopher?

22 A. Yes.

23 Q. And I'm sorry, Michael Moné
24 again, right?

25 A. Yes.

1 Q. Okay. Who else?

2 A. There are additional. There
3 were Doug Emma, Janet Ng.

4 Q. I'm sorry, what's her last
5 name?

6 A. Ng. It's N-g.
7 Kimberly Anna-Soisson.

8 Q. I'm sorry, I didn't get the
9 last name again.

10 A. It's Anna-Soisson. So it's
11 S-o-i-s-s-o-n. It's Anna hyphenated Soisson.

12 Q. Okay.

13 A. And Bill, and I can't think of
14 his last name. Bill Brady.

15 Q. And these were all pharmacists,
16 to your knowledge?

17 A. Yes.

18 Q. Okay. How many other senior
19 analysts were there, other than yourself,
20 when you took over that role in 2012?

21 A. Three or four. I'm not sure.
22 I don't know. I don't remember exactly.

23 Q. And I think you told us earlier
24 you split it up, or divided up, the company
25 geographically, is that right, by

1 distribution center?

2 A. Yes.

3 Q. When you first started in the
4 anti-diversion department, what type of stuff
5 were you and Mr. Hartman doing?

6 A. Well, I don't know what
7 Mr. Hartman would have been doing as far as
8 the role goes. I can give you what I would
9 do. It would be the typical administrative
10 scheduling meetings, travel arrangements,
11 auditing any kind of expense reports. For
12 the most part, most of the day.

13 Q. And this would have been
14 sometime in early 2007; is that right?

15 A. Late 2007. I was an admin
16 prior to that, so...

17 Q. I'm sorry, you lost me there.
18 Say that again?

19 A. I had been an admin since 2003.

20 Q. Right.

21 A. And late 2007 is when I was the
22 admin for the anti-diversion team.

23 Q. Okay. And you believe you did
24 more secretarial tasks?

25 A. For the most part, yes.

1 Q. Until 2010?

2 A. Yes.

3 (Cardinal-Justus Exhibit 5
4 marked for identification.)

5 QUESTIONS BY MR. FULLER:

6 Q. Okay. Let's go to 2020. This
7 is going to be Plaintiff's Exhibit Number 5.

8 Have you seen this document in
9 the past?

10 A. Yes.

11 Q. And what is it?

12 A. It's an outline of tasks that
13 Mr. Hartman was in charge of to -- per his
14 roles and responsibilities.

15 Q. And this is some of the action
16 he was taking when he first came to the
17 anti-diversion department to restructure or
18 recreate it or whatever you want to call it,
19 right?

20 A. Correct.

21 Q. Okay. And it starts off by
22 saying, "Establish new, elevated,
23 organizational unit responsible for the
24 supply chain integrity and anti-diversion;
25 direct dual reporting to the interim chief

1 executive officer, HSCS, and the EVP QRA,
2 Cardinal Health."

3 Right?

4 A. Yes.

5 Q. And tell us, who is the HSCS,
6 if you know.

7 A. I don't know. I don't
8 remember.

9 Q. Who is the EVP?

10 A. Well, the EVP of QRA Cardinal
11 Health would have been Dolch.

12 Q. And EVP is what?

13 A. Executive vice president.

14 Q. Got it.

15 And you believe that would have
16 been who?

17 A. Gary Dolch.

18 Q. Help me out with the last name.
19 I'm sorry.

20 A. Dolch. It's D-o-l-c-h.

21 Q. And this outline, this outline
22 of key anti-diversion actions, was issued, at
23 least according to the document, in January
24 of 2007; is that right?

25 A. That's what it says here, yes.

1 Q. Okay. Do you have any reason
2 to dispute that?

3 A. No.

4 Q. And this document goes through
5 six pages of different changes and
6 implementations that Mr. Hartman was doing
7 during this time frame, correct?

8 A. Well, I would state that that's
9 more than likely a typo because he wasn't put
10 into the position until December of 2007.

11 Q. I --

12 A. I have no idea, yeah.

13 Q. Only going by the document,
14 right?

15 A. Going by the document.

16 Q. And that's what it says?

17 A. It does.

18 Q. Any idea who would have
19 prepared this document?

20 A. More than likely myself.

21 Q. And let's talk about some of
22 the things that are being done. And actually
23 I didn't pick up on this, and I apologize.
24 Gary Dolch's name is printed right on the
25 form, isn't it?

1 A. It is.

2 Q. At least you didn't have to
3 point it out to me.

4 A. I didn't.

5 Q. I called myself out.

6 So if you go down to D on that
7 first page, "Change reporting of VP" --

8 I'm assuming that means vice
9 president, right?

10 A. Uh-huh.

11 Q. Is that a yes?

12 A. I would agree.

13 Q. Okay.

14 -- "of HSCS, QRA, to direct
15 reporting to the senior VP, supply chain
16 integrity and anti-diversion."

17 And then it says the owner is
18 Mr. Dolch?

19 A. That's correct.

20 Q. Do you know, when we say
21 "owner," is that sort of like the person
22 responsible?

23 A. Yes.

24 Q. Whoever owned that task?

25 A. Yes.

1 Q. Okay. So if you go to, on
2 page 3 of the document, number 5, it talks
3 about, "At this point we're going to make
4 anti-diversion compliance a component of
5 annual performance reviews and incentive
6 compensation for field sales and
7 operational -- excuse me, operations
8 personnel."

9 Do you see that there?

10 A. I do.

11 Q. And who is Scott Storrer?

12 A. Scott Storrer?

13 Q. Yes.

14 A. I don't remember what or who
15 his title was. He was in the area leadership
16 group.

17 Q. How about Mike Duffy?

18 A. Again, he was senior light
19 leadership. I don't -- I don't know exactly
20 his title or what -- I believe was
21 operations, but I do not know that.

22 Q. And then we have Mr. Hartman,
23 who we know who he is, right?

24 A. Correct.

25 Q. So now if you can continue to

1 the -- it's the fifth page. You have a
2 section called "Systems."

3 Do you see that down at the
4 bottom?

5 A. Yes.

6 Q. And do you know who Steve
7 Reardon is?

8 A. Yes.

9 Q. Who is Steve Reardon?

10 A. Steve is the -- at that time
11 was the vice president of quality and
12 regulatory affairs and ops, and operations.

13 Q. Okay. And I'm assuming by
14 systems -- and you may be able to help us
15 here. By "systems," you're talking about
16 systems that we're going to address, do
17 something to, systems within the company; is
18 that right?

19 MS. WICHT: Object to the form.

20 THE WITNESS: I don't know
21 that. I would --

22 QUESTIONS BY MR. FULLER:

23 Q. Okay.

24 A. Yeah.

25 Q. You don't know one way or

1 another?

2 A. No, I do not.

3 Q. Number one is the

4 implementation -- or excuse me, "Implement

5 individual SKU daily order limiter for

6 hydrocodone, oxycodone, alprazolam and" --

7 Help me out with that one.

8 A. Phentermine.

9 Q. -- "phentermine until the
10 suspicious order monitoring system is
11 operational."

12 Do you see that?

13 A. I see that, yes.

14 Q. And we're going to put daily
15 order limits according to this, or
16 Mr. Reardon is, until we get our suspicious
17 order monitoring system operational, right?

18 A. I'm not going to take that out
19 of context. I don't know exactly what that
20 means. That is the way it reads, yes.

21 Q. Well, do you disagree that it
22 says we're going to put daily order limits --

23 A. No, I just said that's exactly
24 what it says --

25 Q. Okay.

1 A. -- and that's what it reads.

2 The context behind it, I don't know.

3 Q. What it actually means, you
4 don't have any idea?

5 A. That's correct.

6 Q. It would be a better question
7 for someone else?

8 A. That would be a better question
9 for someone else, what they meant, yes.

10 Q. And then number 2. The second
11 system that we're going to deal is we're
12 going to "develop and implement a
13 computerized system to identify, block and
14 report suspicious orders."

15 Is that what that says?

16 A. That is what that says.

17 Q. And the subcategories there in
18 A and B are also assigned to Mr. Reardon.

19 Now, is it your understanding
20 that in '12 and -- through '14, that was a
21 system you were working with, a system
22 designed to block -- and what did it say? --
23 "identify, block and report suspicious
24 orders." Would that be part of the threshold
25 system?

1 A. Again, and the reason that I
2 don't know what all of this is is because
3 Steve was in quality and regulatory affairs
4 and operations. That's not necessarily
5 anti-diversion department. So, yes, between
6 '12 -- 2012 and 2014, we worked in a system
7 that was all automated for that.

8 I don't know what these systems
9 are that are listed here for Mr. Reardon.

10 Q. Okay. But in any case, at
11 least according to this document, he's going
12 to develop and implement that system. And he
13 has to have it done, a network-wide rollout,
14 by December 23rd of 2007; is that right?

15 A. Yes.

16 MS. WICHT: Object to the form.

17 Calls for speculation.

18 THE WITNESS: It's what it
19 says, yes.

20 QUESTIONS BY MR. FULLER:

21 Q. Do you have any reason to doubt
22 that the document isn't accurate?

23 A. No. I mean, I --

24 Q. I mean --

25 A. Actually, I've caught two typos

1 on myself, but...

2 Q. We won't talk about those.

3 A. So as far as accuracy, yes,
4 this is what I would have been given to put
5 on this document, yes.

6 Q. And probably by Mr. Hartman?

7 A. More than likely, yes.

8 Q. Okay. And then number 4,
9 "Ensure appropriate communication to field on
10 order blocking that will occur with IT
11 solution so that field is equipped to deal
12 with customers."

13 And I'll tell you right off the
14 bat that that whole grammatical thing could
15 have been better.

16 A. It most certainly could have.

17 Q. But we'll blame that on
18 Mr. Hartman.

19 A. Yes, we will.

20 Q. You only type what you're
21 given, right?

22 A. That's right.

23 Q. All right. So again, number 4
24 is "ensure appropriate communication to
25 field," and by that we would think we're

1 talking about people out in the field?

2 A. I don't know what that means.

3 Q. Okay. "Communication to field
4 on order blocking that will occur with IT
5 solution so that field is equipped to deal
6 with customers."

7 And that was to be implemented
8 by January 18 of 2000 -- or excuse me,
9 January 18 of 2008; is that right?

10 A. That's what this says, yes.

11 Q. Okay. All right. So in your
12 job as the administrative assistant, as you
13 testified earlier, you would have prepared
14 this document; is that right?

15 A. Yes, more than likely, uh-huh.

16 Q. And you believe it would have
17 been at the direction of whom?

18 A. Mr. Hartman.

19 Q. Because he was your supervisor?

20 A. He was my direct report, yes.

21 Q. Okay. And you would have
22 prepared this document in the normal course
23 of business following his direction, correct?

24 A. Yes.

25 Q. He would have provided you all

1 the information contained in the document?

2 A. Yes.

3 MS. WICHT: Object to the form.

4 QUESTIONS BY MR. FULLER:

5 Q. And it's your understanding
6 that it would have been for whatever task he
7 was doing in his position of -- what was his
8 title again?

9 A. Senior vice president of supply
10 chain integrity or anti-diversion and --

11 Q. Whatever it was --

12 A. Right.

13 Q. -- he was doing it?

14 A. Right. I mean, that was his
15 role, yes.

16 Q. In the execution of his job
17 duties and responsibilities, correct?

18 A. To my knowledge, yes.

19 Q. Okay. Now, are you aware of
20 prior to this point in time, 2007, and during
21 2007 that Cardinal was having some issues?

22 A. I was not aware.

23 MS. WICHT: Object to the form.

24 (Cardinal-Justus Exhibit 6
25 marked for identification.)

1 QUESTIONS BY MR. FULLER:

2 Q. I'm going to hand you
3 Plaintiff's Exhibit Number 6.

4 Now, Ms. Justus, what you have
5 is what appears to be a standard operating
6 procedure for Cardinal Health; is that
7 correct?

8 A. That's correct.

9 Q. And it says -- the title is,
10 "Anti-diversion and compliance." And I've
11 got one on the overhead.

12 A. Uh-huh.

13 Q. That is highlighted because I
14 highlighted it yesterday when we were using
15 it.

16 Right? At the top it says
17 "Anti-diversion and compliance"?

18 A. Yes.

19 Q. Compliance and policy?

20 A. Yes.

21 Q. And it indicates it was issued
22 in February of 2006; is that right?

23 A. Yes.

24 Q. It indicates also that it's a
25 new policy and procedure?

1 A. Yes.

2 Q. And tell the jury what the
3 purpose of this policy and procedure is
4 according to the document.

5 A. I would have to absolutely read
6 this and try to figure that out. I've not
7 seen this before.

8 Q. Ma'am, I'm just asking you to
9 read the purpose on the document.

10 A. Oh. "The purpose of the policy
11 is to establish a process and procedure to
12 detect and prevent the diversion of products
13 that Cardinal Health sells to closed-door
14 pharmacy customers at contract pricing."

15 Q. And do you know who the -- what
16 it means by closed-door pharmacy? Do you
17 know what those are?

18 A. Yes.

19 Q. Explain to the jury what that
20 is.

21 A. It would be any pharmacy
22 without any walk-ins.

23 Q. So it means something with no
24 retail, correct?

25 A. Normally, yes.

1 Q. And if you look down at the
2 definition section of this document it
3 actually says, "Closed-door pharmacy means
4 any non-retail pharmacy." Is that right?

5 A. Yes, it does.

6 Q. And that's consistent with your
7 definition?

8 A. Yes.

9 Q. Okay.

10 A. Yes.

11 Q. Would you suspect that there
12 would be other policies and procedures
13 related to the anti-diversion during this
14 time?

15 A. I don't have any idea.

16 Q. We know that when you got into
17 that department you had them, right? We
18 looked at some of them?

19 A. Yes.

20 Q. The threshold, high tail -- or
21 highlight report, so forth and so on,
22 correct?

23 A. Yes.

24 Q. If this is the only one that
25 existed back in 2006, would that cause you

1 any concern?

2 MS. WICHT: Object to form.

3 Foundation. Calls for speculation.

4 THE WITNESS: That's a

5 hypothetical. I don't know if there's

6 others. I don't know what the

7 policies were. I was not in the

8 department.

9 I don't have any opinion on

10 that. I don't know what that would

11 be.

12 QUESTIONS BY MR. FULLER:

13 Q. Sure.

14 And at Cardinal, Cardinal takes

15 a position that all of its employees are

16 responsible for preventing diversion, right?

17 A. That is correct.

18 Q. Whether you're an

19 administrative assistant in some other

20 far-off department or whether you're in the

21 anti-diversion department, correct?

22 A. That would be correct.

23 Q. In order to do that, to try to

24 prevent diversion --

25 A. Yes.

1 Q. -- we need to have some
2 mechanism to assist for that; would you
3 agree?

4 MS. WICHT: Object to the form.

5 QUESTIONS BY MR. FULLER:

6 Q. Policy, procedure, practice,
7 something?

8 A. Something.

9 Q. Okay. This policy and
10 procedure only focuses on one of those
11 segments of who we deliver to as Cardinal; is
12 that right?

13 A. That's correct.

14 Q. You would suspect to see a
15 policy and procedure for retail pharmacies,
16 right?

17 MS. WICHT: Object to the form.

18 THE WITNESS: I would not
19 expect any -- to be able to see
20 anything. I mean, this is the first
21 I've seen this one.

22 QUESTIONS BY MR. FULLER:

23 Q. Right.

24 A. So I can't make an expectation
25 of anybody having anything more written.

1 Q. I'm not asking you to make an
2 expectation. I've asking you based on
3 15 years of experience with Cardinal.

4 A. Uh-huh. No, I -- I not
5 necessarily would have any expectation. It
6 could have a departmental process.

7 Q. Fair enough. Fair enough.
8 Do you know who Eric Brantley
9 is?

10 A. I do know Eric Brantley.

11 Q. And who is Eric Brantley?

12 A. Well, from -- gosh. I remember
13 that Eric was -- I don't know his title. I
14 don't know much about Eric. I know that Eric
15 ended up moving to Atlanta area at one point.

16 The reason I would know Eric is
17 because he sat near me in cubicles. I didn't
18 really know what he did or what his role was.

19 Q. When you say you sat next to
20 him or near him --

21 A. Near him in the area in -- on
22 the fourth floor in the 4C wing of our
23 corporate building. He was just an
24 individual that sat in the area.

25 Q. And when was that? What time

1 frame are you talking?

2 A. Oh, gosh. That would have
3 been, I don't know, 2005 maybe.

4 (Cardinal-Justus Exhibit 7
5 marked for identification.)

6 QUESTIONS BY MR. FULLER:

7 Q. Next document you have is a
8 policy and procedure -- actually it's an
9 anti-diversion compliance policy overview.

10 A. Uh-huh.

11 Q. Do you see that?

12 And it looks like it was -- at
13 least Eric Brantley's name is at the bottom?

14 A. That's correct.

15 Q. Okay. And what's the date
16 there at the bottom?

17 A. April of 2006.

18 Q. And it gives a title.

19 A. It does.

20 Q. What's the title of

21 Mr. Brantley there?

22 A. Anti-diversion compliance
23 coordinator.

24 Q. Okay. Did you ever know him to
25 be working with anti-diversion at all?

1 A. No, I didn't know that at the
2 time. No.

3 Q. If you turn to the first page,
4 it talks about, "The anti-diversion
5 conversion compliance policy sets forth
6 guidelines and procedures Cardinal Health has
7 adopted to detect and prevent the diversion
8 of drugs it sells to closed-door pharmacy
9 customers at contracting prices."

10 You would agree with me that
11 the anti-diversion practice that was there in
12 2010 through 2014 was much broader than that,
13 correct?

14 A. I would not speculate that. I
15 don't know what they had beforehand.

16 Q. Well --

17 A. For this, this is one document
18 that he would have created.

19 Q. Yes.

20 A. Yes.

21 Q. And in this document he says,
22 "The anti-diversion compliance policy sets
23 forth guidelines and procedures for Cardinal
24 related to closed-door pharmacy customers."

25 I'm not asking you to read

1 anything into it. I'm just asking you if
2 what you did when you were in the diversion
3 department was broader than just closed-door
4 customers.

5 A. Yes.

6 Q. Okay. And it says, "The policy
7 applies to all officers and employees of
8 Cardinal and its subsidiaries."

9 As you stated earlier, you
10 agree with that, that we all have an
11 obligation when it relates to diversion and
12 controlled substances, correct?

13 A. Yes.

14 Q. If you go to the next page,
15 second bullet point there talks about
16 "preventing diversion has also been a recent
17 focus of a number of governmental efforts."
18 And the first one it talks about is the
19 New York Attorney General inquiries.

20 Do you know anything about
21 those?

22 A. No.

23 Q. Or what they encompassed?

24 A. No, I don't.

25 (Cardinal-Justus Exhibit 8

1 marked for identification.)

2 QUESTIONS BY MR. FULLER:

3 Q. All right. Plaintiff's Exhibit
4 Number 8. Pass to counsel two copies.

5 I'm just assuming that you've
6 never seen this document before, right?

7 A. No.

8 Q. Now, when you came into the
9 anti-diversion department, did they share any
10 history of diversion issues with you?

11 A. No.

12 Q. That Cardinal may have had?

13 A. No.

14 Q. Would you have wanted to know
15 of any issues so you could be on the lookout
16 for similar things, or didn't matter?

17 MS. WICHT: Object to the form.

18 THE WITNESS: At that point in
19 time, no, I was not aware of what
20 things were. I had not held
21 positions --

22 QUESTIONS BY MR. FULLER:

23 Q. And when you first came in, you
24 were administrative assistant still?

25 A. Right. So, no.

1 Q. So when you get promoted in
2 2010 into a position where you're actually
3 evaluating clients, drugstores and
4 pharmacies, to decide whether we're going to
5 accept them, at that point did they give you
6 any insight into the history of compliance
7 issues that Cardinal has had?

8 MS. WICHT: Object to the form.

9 THE WITNESS: That Cardinal had
10 had?

11 QUESTIONS BY MR. FULLER:

12 Q. Yes, ma'am.

13 A. No, it was more of the training
14 of what to look for. That would have all
15 been discussed in litigation or in legal
16 meetings or in senior management meetings.
17 That wasn't -- it wasn't as a historical-type
18 training. It was on what we were looking for
19 and what our daily duties were.

20 Q. So then in 2012 when you got
21 promoted again to senior analyst, they still
22 didn't provide you any training or any
23 understanding of what had been going on with
24 Cardinal as far as regulatory issues, did
25 they?

1 MS. WICHT: Object to the form.

2 THE WITNESS: No. I mean, what
3 we knew from being in the department
4 at that point in time, sure, we
5 could -- but there was no training,
6 there was no --

7 QUESTIONS BY MR. FULLER:

8 Q. What did you --

9 A. -- reading of these documents.

10 Q. What did you know of what was
11 going on from being in the department?

12 A. Well, in -- that we had lost
13 licensure, right? I mean, that was pretty
14 common knowledge that we had lost licensure
15 from the DEA, making notice that, you know,
16 for whatever reason, that they had their
17 findings on our sales, which is why we had
18 the processes in place.

19 Q. You say "for whatever reason."
20 Do you know what the reasons
21 were?

22 A. You know what? Sure. They
23 stated that we had shipped too many
24 prescription drugs to pharmacies is what they
25 had stated, yes.

1 Q. And do you believe you did?

2 A. I did not see any order ever go
3 out of Cardinal Health that was ever thought
4 to be for diversion, no. I don't know.

5 Q. So the best you understand and
6 what you've seen and what you've worked on
7 over the time that you were in the
8 anti-diversion department, you've never seen
9 any order go out that you thought was
10 suspicious of diversion?

11 A. That is correct.

12 Q. And let's talk about -- when we
13 talk about suspicious orders, we're talking
14 about orders that we believe could be or
15 might be diverted, correct?

16 A. That is a could be, yes.

17 Q. Okay. It's not that we have to
18 know for sure 100 percent that they're going
19 to be diverted; we just have to have a
20 suspicion that they may be?

21 A. Correct.

22 Q. Okay. And why do we want to
23 prevent diversion?

24 MS. WICHT: Object to the form.

25 THE WITNESS: So that

1 prescription drugs do not get into the
2 wrong hands or are used in any way
3 other than medical purposes.

4 QUESTIONS BY MR. FULLER:

5 Q. Because if they are, it can be
6 what?

7 MS. WICHT: Object to the form.

8 THE WITNESS: Per all of the
9 documents, it can be -- what were some
10 of the words here? -- damaging,
11 harmful.

12 QUESTIONS BY MR. FULLER:

13 Q. To the general public, right?

14 A. Absolutely.

15 MS. WICHT: Object to the form.

16 THE WITNESS: It could be.

17 QUESTIONS BY MR. FULLER:

18 Q. And you mentioned you want to
19 prevent the diversion into other than the
20 legitimate use.

21 When we're talking about
22 diversion, that's actually talking about
23 criminal activity. We want to prevent
24 criminal activity, correct?

25 MS. WICHT: Object to the form

1 to the extent it calls for a legal
2 conclusion.

3 THE WITNESS: I can't say
4 what's criminal and isn't criminal.

5 QUESTIONS BY MR. FULLER:

6 Q. Do you know whether or not the
7 diversion of controlled substances is a
8 crime?

9 A. Yes.

10 Q. Okay. So by blocking
11 suspicious orders, we're trying to prevent
12 diversion, correct?

13 A. Correct.

14 Q. Therefore, we're trying to stop
15 crimes from happening at Cardinal; isn't that
16 what we're really doing?

17 MS. WICHT: Object to the form.

18 THE WITNESS: Well, I think
19 stopping crime -- we are trying to --
20 Cardinal Health is a distribution
21 company. We are trying to get
22 products to legitimate uses in the
23 pharmacies.

24 It is not Cardinal Health's
25 responsibility to police officer that

1 criminal activity to the degree of
2 where -- where I would know what
3 criminal activity was happening.
4 That's above my role and
5 responsibility there.

6 QUESTIONS BY MR. FULLER:

7 Q. Right.

8 A. Right.

9 Q. But you've already testified
10 that we're --

11 A. Yes.

12 Q. Under suspicious orders, we're
13 trying to prevent suspicious orders because
14 of potential for diversion.

15 A. That's correct.

16 Q. Which is a crime.

17 MS. WICHT: Object to the form.

18 QUESTIONS BY MR. FULLER:

19 Q. Correct?

20 A. Correct.

21 Q. Okay. 2434 has been marked as
22 Exhibit 8.

23 Do you see that? Do you have
24 that document, "Assurance" --

25 A. I do have this document.

1 Q. "Assurance of discontinuance
2 pursuant to Executive Law Section 63(15)."

3 A. Yes.

4 Q. And you don't have any idea
5 what type of conduct was going on here,
6 correct?

7 A. No.

8 Q. You haven't seen this before?

9 A. No, I have not.

10 Q. And you're free to read the
11 document. The document deals with two
12 issues: purchases from other than reliable
13 sources, as well as diversion.

14 And for the purposes of our
15 conversation, I will focus on the diversion
16 piece. And if you go to page 4, starts at
17 the bottom, paragraph 12.

18 Do you see that there, ma'am?

19 A. Yes.

20 Q. Actually, let's go to
21 paragraph 11 first.

22 MR. FULLER: Can you zoom in on
23 11 for me?

24 QUESTIONS BY MR. FULLER:

25 Q. It says, "Cardinal repeatedly

1 sold pharmaceuticals to customers that it
2 knew or should have known were diverting
3 pharmaceuticals."

4 Isn't that what it reads?

5 A. That's what it reads.

6 Q. And that "Cardinal made
7 numerous sales to pharmaceuticals" -- excuse
8 me -- "of pharmaceuticals to a Nevada company
9 which purported to be a, quote/unquote,
10 closed-door pharmacy that serviced only
11 nursing homes."

12 Is it surprising to you that
13 shortly after this document is entered into
14 in December of 2006 -- not shortly after it
15 was entered into -- after the investigation
16 began, that Cardinal put out a policy related
17 to closed-door pharmacies?

18 MS. WICHT: Object to form.

19 Calls for speculation.

20 THE WITNESS: Sir, I don't know
21 why or when any of these documents
22 were created. This is -- this would
23 definitely be handled by the legal
24 department, right?

25 I don't know why any documents

1 would have been created after, before
2 or --

3 QUESTIONS BY MR. FULLER:

4 Q. Sure. I mean, all of this is
5 being handled by the legal department.

6 A. That's correct.

7 Q. That's why we have legal
8 counsel here.

9 A. Well, I mean, yes, but I don't
10 know why these things would have been in the
11 dates that they're in.

12 Q. Okay. And then you do know
13 that in 2007 there were immediate suspension
14 orders issued to Cardinal, correct?

15 A. That's correct.

16 Q. Okay. And that's the same year
17 you got transferred to this anti-diversion
18 department; is that right?

19 A. That's correct.

20 Q. Do you know if those immediate
21 suspension orders were entered prior to your
22 transfer?

23 A. Yes, they were.

24 Q. Okay. And do you know what
25 facilities those ISOs, or immediate

1 suspension orders, pertained to?

2 A. It would have been Lakeland.

3 It would have been Swedesboro. I believe our
4 Seattle location.

5 Q. Now, before we look at anything
6 related to that, let me ask you: Do you have
7 any knowledge of the Rannazzisi letters that
8 were issued in 2006?

9 A. No.

10 Q. What about the ones issued in
11 2007?

12 A. No.

13 Q. Have you ever seen those
14 letters?

15 A. No.

16 Q. At least that you're aware of?

17 A. That's correct, not that I am
18 aware of.

19 Q. I'm sorry?

20 A. Not that I'm aware of, no.

21 MR. FULLER: Okay. So we'll go
22 to 2024. This will be Plaintiff's
23 Exhibit 9. If you go to the second
24 page, Evan.

25 (Cardinal-Justus Exhibit 9

1 marked for identification.)

2 QUESTIONS BY MR. FULLER:

3 Q. Have you ever seen this
4 document before?

5 A. No, sir.

6 Q. It appears to be the order to
7 show cause and immediate suspension of
8 registration for Cardinal Health, correct?

9 A. It appears to be that, yes.

10 Q. Okay. If you'll turn -- and it
11 says, "Cardinal Health, 2045 Interstate
12 Drive, Lakeland, Florida."

13 That's in Polk County, right?

14 A. I have no idea.

15 Q. Okay. I do know that because I
16 grew up there.

17 A. Okay.

18 Q. Lakeland, Florida, that is the
19 address of that distribution center, or do
20 you know that?

21 A. I don't have that address
22 memorized. I would -- I don't.

23 Q. Okay. So if we go to the third
24 page, you blow up that graph, this was the
25 basis of the immediate suspension order. And

1 on the left it appears that we have the
2 pharmacies that were being delivered to; is
3 that right?

4 MS. WICHT: Object to the form.

5 THE WITNESS: It looks --

6 MS. WICHT: She said she's
7 never seen this before. I don't know
8 how she's supposed to tell you that.

9 QUESTIONS BY MR. FULLER:

10 Q. I'm sorry, I thought that --
11 well, let me back up.

12 Ms. Justus, you can certainly
13 read the document, correct?

14 A. I can read the document.

15 Q. And my question was: The
16 column on the left says it includes the
17 pharmacies.

18 I don't think you've had to see
19 this document before to know the column on
20 the left lists the pharmacies, right?

21 A. Correct.

22 Q. Okay. And then the next column
23 lists the dosage units or total dosage units;
24 is that right?

25 A. That's correct, that's what it

1 says.

2 Q. In your industry, is there a
3 special meaning that you guys give to dosage
4 units?

5 What is a dosage unit, if you
6 know?

7 A. Dosage unit is exactly what it
8 states, that is, a least unit of measure, or
9 the smallest unit of measure, that can be --
10 it's kind of hard to actually explain what a
11 dosage unit is.

12 Q. Can you give me --

13 A. Sorry.

14 Q. So --

15 A. Yes.

16 Q. So if we're dealing with oxys,
17 can you give me an example of what a
18 dosage -- what is the dosage unit measure for
19 oxys?

20 A. I can give you what it is or
21 what we knew it to be, so -- while I was in
22 that department.

23 Q. Fair enough.

24 A. Okay. Because a clinical dose
25 could be completely different to the degree

1 of -- I don't know how it's prescribed.

2 Q. Fair enough.

3 A. Okay. A dosage unit could
4 be -- if a bottle size is a 100-count bottle
5 and a dose is one, right? So it's the least
6 amount of units.

7 Q. Okay. So it's basically -- if
8 we're talking about pills, it's going to be
9 the number of pills?

10 A. Not always.

11 Q. Are there some outlier
12 exceptions to that?

13 A. I believe there could be, yes,
14 depending upon how that prescription is
15 written and the strength of the tablet, yes.

16 Q. If we're dealing with, say,
17 generally oxys and here we're dealing with
18 hydrocodone, we're going to be talking about
19 number of pills?

20 A. Yes.

21 Q. Okay. So if you look at this
22 graph, the first pharmacy received a total
23 dosage units of 620,000 and some change over
24 four months.

25 That's what the graph

1 indicates, right?

2 A. Yes.

3 Q. An average of 155,000 dosage
4 units for those four months.

5 Does that -- based on your
6 experience, does that seem significantly
7 large?

8 A. That's a number --

9 MS. WICHT: Objection. Calls
10 for speculation.

11 THE WITNESS: First of all, I
12 mean, that's just one number.

13 QUESTIONS BY MR. FULLER:

14 Q. Well, I mean --

15 A. That not necessarily has --

16 Q. It's the number averaged over
17 four months.

18 A. What's the question?

19 Go ahead. What was your
20 question, please? Because...

21 Q. Again, so based on your
22 experience --

23 A. I agree that's that exactly
24 what it says, over four months, yes.

25 Q. Is that a large delivery to a

1 pharmacy for hydrocodone?

2 MS. WICHT: Objection. Calls
3 for speculation.

4 THE WITNESS: There is no way I
5 can make that decision. I couldn't
6 even speculate that. There is -- that
7 one number has absolutely -- there's
8 way too much that would go behind
9 making a conclusion on whether that is
10 a large number.

11 QUESTIONS BY MR. FULLER:

12 Q. So one of the things we want to
13 know is what we talked about earlier, right,
14 the history of the pharmacy, correct?

15 A. We would.

16 Q. One of the things we would also
17 look at is thresholds. It's based on some
18 sort of number of what's normal for
19 everybody, correct?

20 A. What would be normal for that
21 pharmacy would be how that progressed, and
22 under the time frame that I was in the
23 department, we were looking much more at the
24 individual pharmacy.

25 Q. Now, a policy says that we can

1 compare to other pharmacies.

2 A. We could.

3 Q. Okay.

4 A. Yes.

5 Q. And the DEA indicated, if we go
6 to the paragraph above this graph, indicates
7 that the retail pharmacies in Florida order
8 an average of less than 8,400 dosage units of
9 hydrocodone per month.

10 You would agree with me that
11 155 is well over ten times the average, isn't
12 it?

13 MS. WICHT: Just asking her
14 about the math? Is that the question?

15 MR. FULLER: Counsel, if you
16 want to object to form, you can object
17 to form.

18 MS. WICHT: I object to the
19 form.

20 MR. FULLER: If you don't
21 understand my question, I really don't
22 care.

23 If the witness has a question
24 about understanding my question, which
25 I'm sure she is going to ask now about

1 the math, then she can ask me.

2 THE WITNESS: Just repeat your
3 question, please.

4 QUESTIONS BY MR. FULLER:

5 Q. Yes, ma'am.

6 So 8,400 average in Florida at
7 this time is -- well, 155,000 is more than
8 ten times what the average was during this
9 time, correct?

10 MS. WICHT: Object to the form
11 of the question.

12 THE WITNESS: Per that math
13 calculation only, yes. That doesn't
14 state anything about what type of
15 pharmacy, what -- again, it's a
16 number. It's a number.

17 QUESTIONS BY MR. FULLER:

18 Q. It is.

19 A. That's right.

20 Q. And that's one of the things we
21 have to look at, isn't it?

22 MS. WICHT: Object to the form.

23 THE WITNESS: It is one, and
24 only one, of the factors.

25

1 QUESTIONS BY MR. FULLER:

2 Q. Now, we talked earlier about --

3 A. We did.

4 Q. -- the fact that you can have a
5 suspicious order based on numbers alone.

6 MS. WICHT: Object to the form.

7 QUESTIONS BY MR. FULLER:

8 Q. Didn't we?

9 A. We stated -- I stated that you
10 could.

11 Q. Okay. Let's go down to Q-R-G,
12 Inc. Over a five-month period, 1.2 million
13 pills delivered to that pharmacy.

14 Would that cause you any
15 concern as a senior analyst?

16 MS. WICHT: Object to the form
17 of the question.

18 THE WITNESS: Not to look at
19 that number.

20 QUESTIONS BY MR. FULLER:

21 Q. None at all?

22 A. No.

23 Q. And that's because Cardinal was
24 regularly dumping millions of pills into
25 pharmacies on a regular basis, right?

1 MS. WICHT: Object to the
2 form of the question.

3 THE WITNESS: Sir, I have no
4 idea of that.

5 QUESTIONS BY MR. FULLER:

6 Q. Do you not know how many --

7 A. I did not ever see -- I did not
8 ever see any kind of an order that went out
9 and was shipped from Cardinal that was known
10 for diversion to be happening. There was --
11 no.

12 Q. Is that the -- is that the
13 burden, that diversion has to be known to be
14 happening?

15 MS. WICHT: Objection to the
16 form of the question.

17 THE WITNESS: I think that
18 would be kind of speculation. I have
19 no idea --

20 QUESTIONS BY MR. FULLER:

21 Q. That's what you just stated:
22 We didn't ship an order where diversion was
23 known to be happening.

24 A. That's correct.

25 Q. That's not the burden, is it?

1 You have to stop an order if it might be
2 diverted.

3 MS. WICHT: Object to the form
4 of the question to the extent it calls
5 for a legal conclusion.

6 THE WITNESS: There's no way
7 that I can give you any more
8 information on this being one number
9 in --

10 QUESTIONS BY MR. FULLER:

11 Q. Let's back up.

12 Is the obligation of Cardinal
13 to stop an order that might be diverted, or
14 that it has to know it's going to be
15 diverted?

16 MS. WICHT: Object to the form
17 of the question.

18 THE WITNESS: That is not my
19 decision. That's not my definition.
20 That's not --

21 QUESTIONS BY MR. FULLER:

22 Q. Well, hold on. You were the
23 one sitting at the -- in the corporate
24 headquarters making the call as to whether to
25 clear or cancel an order, right?

1 A. That's correct.

2 Q. So that was your decision. You
3 had the ability to clear an order and let it
4 go through or cancel it and stop it --

5 A. That's correct.

6 Q. -- based on your investigation.
7 So that determination of what
8 you needed to stop and what you needed to let
9 through, you have to understand what you're
10 supposed to be stopping to be able to do
11 that?

12 A. Correct.

13 And one number is not
14 necessarily the only answer. And this is
15 nothing more than giving me a pharmacy name.
16 I don't know the type. I don't know what
17 they did. I don't know any history on it. I
18 don't know why there would have been shipped
19 this, and I can't give that to you from the
20 questions that you're asking me.

21 Q. And, ma'am, we've stepped away
22 from this graph for a second. I'm asking now
23 what the standard is as far as shipping a
24 suspicious order.

25 You only halt it if you know

1 it's going to be diverted, or do you halt it
2 if it might be diverted?

3 A. Personally, I would cut an
4 order if I thought that there was any chance
5 of it.

6 MR. FULLER: Fair enough.
7 We'll take a break.

8 VIDEOGRAPHER: We're going off
9 record. The time is 2:03.

10 (Off the record at 2:03 p.m.)

11 VIDEOGRAPHER: We're going back
12 on the record. Beginning of Media
13 File Number 4. The time is 2:21.

14 QUESTIONS BY MR. FULLER:

15 Q. And, Ms. Justus, we were just
16 discussing the immediate suspension order and
17 some of the shipments that made up that
18 suspension, correct?

19 A. That's correct.

20 Q. And again, you've been -- or
21 were in the anti-diversion department
22 yourself from 2007 to 2014, right?

23 A. That's correct.

24 Q. You've been with Cardinal
25 approximately 15 years. And as I think

1 you've agreed and multiple people previously
2 have stated, everybody at Cardinal is
3 responsible for diversion and making sure we
4 prevent as much diversion as possible; is
5 that correct?

6 A. That's correct.

7 Q. Okay. And part of the time you
8 were the diversion person. You were the one
9 analyzing orders and determining, as you just
10 testified, whether they either went out or
11 whether they were cut, correct?

12 A. That's correct.

13 Q. Now, being that you're that
14 person, you have to know what type of orders
15 need to be cut, what type of orders need to
16 be let through, correct, whatever the -- what
17 your threshold is? And by "threshold" I
18 don't mean your number. I mean are we
19 stopping suspicious orders that may be
20 diverted, could be diverted; do we have to
21 know diversion is going on?

22 You have to know what that
23 baseline is, correct?

24 MS. WICHT: Objection to the
25 form of the question.

1 THE WITNESS: The baseline
2 would be, from sitting where we sat in
3 the department, baseline would be that
4 threshold.

5 QUESTIONS BY MR. FULLER:

6 Q. Let me ask it differently.

7 A. Okay.

8 Q. You need to know what your duty
9 is as it relates to suspicious orders,
10 correct?

11 A. That's correct.

12 Q. And your duty was that we are
13 to stop a whole shipment of anything that
14 might be diverted; is that right?

15 MS. WICHT: Objection.

16 QUESTIONS BY MR. FULLER:

17 Q. Anything that you suspected
18 could be a subject of diversion?

19 MS. WICHT: Object to the form
20 of the question.

21 THE WITNESS: Yes.

22 QUESTIONS BY MR. FULLER:

23 Q. Or were you required before you
24 cut an order, required to go out in the field
25 and confirm that diversion was actually going

1 on?

2 A. No, I could cut an order
3 without going to the field.

4 Q. And that's what your duty was.
5 You were to cut anything that was,
6 quote/unquote, suspicious, correct?

7 MS. WICHT: Object --

8 THE WITNESS: Sorry.

9 MS. WICHT: Object to the form
10 of the question.

11 THE WITNESS: The possibility
12 of -- it could be suspicious, yes.

13 QUESTIONS BY MR. FULLER:

14 Q. Okay. And you believe in your
15 role as the senior analyst that you erred on
16 the side of caution when you cut more than
17 just what would be, quote/unquote,
18 suspicious; is that right?

19 A. Yes.

20 Q. You cut more than you let
21 through?

22 A. Yes.

23 Q. Okay. And we were just talking
24 about the ISO, and you're aware that the
25 memorandum of understanding between Cardinal

1 and the DEA came out in 2008 during the time
2 you were actually in the diversion
3 department; is that right?

4 A. Yes. I was an admin, yeah.

5 Q. And you're aware that there
6 were multiple suspensions because of
7 violations of this suspicious order
8 requirement, correct?

9 MS. WICHT: Object to the form
10 of the question.

11 THE WITNESS: That was the
12 understanding, yes.

13 QUESTIONS BY MR. FULLER:

14 Q. You knew that. Somebody told
15 you that. Like you said, it was common
16 knowledge.

17 A. Correct.

18 Q. And when you say "common
19 knowledge," common knowledge throughout the
20 company?

21 A. I don't know who knew. It was
22 not a hidden factor, so anybody was allowed
23 to know, but I don't know who. But, yes,
24 it's common knowledge.

25 Q. Was it common knowledge within

1 the diversion department that this issue had
2 arose, needed to be addressed?

3 A. Yes.

4 Q. What changes were made to the
5 diversion department because of this, this
6 2008 memorandum of understanding and the
7 immediate suspension orders; do you know?

8 A. Not that I was working on. I
9 was still an admin when all of that took
10 place.

11 Q. Right.

12 A. Right.

13 So as far as putting the
14 procedures into place, I don't know what was
15 all changed.

16 Q. And then moving forward, you
17 take on this role as analyst, correct?

18 A. That's correct.

19 Q. Beginning in 2010?

20 A. Yes.

21 Q. And then there's another --

22 A. Oh, it wasn't necessarily
23 beginning of 2010. It was --

24 Q. You became the new --

25 A. -- in 2010, yes.

1 Q. Right.

2 Then in '12 you became the
3 senior analyst?

4 A. Yes.

5 Q. Okay. And then later in 2012,
6 some of the facilities, some of the
7 distribution centers, particularly Lakeland,
8 that you oversaw has another run-in with the
9 DEA; is that right?

10 A. That is correct.

11 Q. And being that you were in that
12 role, do you have any -- did anybody talk to
13 you about what was going on in those
14 facilities?

15 A. No.

16 Q. No one came to you?

17 A. No. It was common knowledge
18 that we had issues again and what their
19 findings would be, that they were under
20 investigation.

21 Q. And you say "issues again."
22 Issues related to, again, sending out
23 suspicious orders; is that right?

24 MS. WICHT: And, Ms. Justus, I
25 just could caution you, and I don't --

1 if there were conversations that you
2 had with attorneys for Cardinal Health
3 at that time, those are privileged and
4 you shouldn't reveal those. But to
5 the extent there were any
6 conversations that were not with
7 attorneys, you are free to testify
8 about those. Okay.

9 THE WITNESS: Yeah, there's --
10 there is nothing that would have
11 stated, or they didn't come to me or
12 anything of the sort.

13 QUESTIONS BY MR. FULLER:

14 Q. So your boss never said, "Hey,
15 we just have another issue in Lakeland. How
16 is Lakeland going? What's going on in
17 Lakeland? Tell me, since you're the senior
18 analyst looking at Lakeland suspicious
19 orders, threshold events, what do you see?"

20 MS. WICHT: Object to the form
21 of the question.

22 THE WITNESS: No, they didn't
23 do that. They would have run reports
24 or asked reports to be run or whatever
25 they were looking for. That was not

1 something that they would have come to
2 me directly and said, "What's the
3 lowdown," or whatever you stated. No,
4 that's not the way that was -- no.

5 QUESTIONS BY MR. FULLER:

6 Q. Not what's the lowdown.

7 A. Well, you're asking what was
8 going on, was the question. So they would
9 not have asked me how Lakeland was going.
10 They would not have asked me that.

11 Q. Why not?

12 A. I don't know.

13 Q. You're the person reviewing all
14 of the Lakeland suspicious orders thresholds
15 in 2012, right?

16 A. For retail independent, yes.

17 Q. Okay. And you don't believe
18 there was any suspicious orders that went out
19 of Cardinal?

20 A. I don't.

21 Q. Do you know what pharmacies
22 were related to the 2012 investigation?

23 A. At that moment, at that time,
24 no, I didn't.

25 Q. How about now?

1 A. I do now.

2 Q. Were there any retail
3 independents involved?

4 A. There were.

5 Q. Were any suspicious orders
6 shipped to them?

7 A. Not to my knowledge, no.

8 Q. Do you know whether or not
9 Cardinal investigators asked to call the DEA
10 related to what they suspected as subject,
11 potentially criminal activity?

12 A. No, I don't know that.

13 MS. WICHT: Object to the form
14 of the question. Foundation.

15 QUESTIONS BY MR. FULLER:

16 Q. Do you know a gentleman by the
17 name of Mr. Moellering?

18 A. Yes, I do.

19 Q. Who is Mr. Moellering? Tell it
20 to the jury.

21 A. He was an investigator for
22 Cardinal Health.

23 Q. And what was his job as an
24 investigator for Cardinal Health?

25 A. I don't have all the duties.

1 He would be one that we would have -- he
2 would have done a site visit to a pharmacy.

3 Q. And a site visit related to
4 potentially suspicious orders or
5 diversion-type of activity?

6 A. That's correct.

7 Q. And he was trained in this
8 area, correct?

9 A. I don't know that, yes.

10 Q. Would you suspect --

11 A. I would suspect that he did --
12 was.

13 Q. I mean, there's no reason to
14 send someone out to do an investigation
15 unless they're trained in investigating what
16 they're supposed to be there to investigate,
17 right?

18 MS. WICHT: Object to the form
19 of the question.

20 THE WITNESS: I would agree
21 with that.

22 (Cardinal-Justus Exhibit 10
23 marked for identification.)

24 QUESTIONS BY MR. FULLER:

25 Q. Okay. Now we're going to go to

1 2025.

2 And this is one of the
3 affidavits, declarations, done by the DEA
4 related to that 2012 memorandum of
5 understanding in the Cardinal versus Holder
6 or Holder versus Cardinal matter.

7 Have you ever seen this
8 document before, ma'am?

9 A. No, sir.

10 Q. It's the declaration of a
11 Ruth A. Carter.

12 Do you see that?

13 A. I do.

14 Q. And for the record, we're now
15 looking -- I think the exhibit sticker I gave
16 you, Ms. Justus, is Number 10; is that right?

17 A. That's correct.

18 MR. FULLER: Did you give her
19 the right one?

20 MS. WICHT: I did, sorry, yep.
21 I have the wrong one myself, but she
22 has the right document.

23 MR. FULLER: All right. All
24 right.

25 MS. WICHT: Thank you.

1 MR. FULLER: Sure. I just
2 wanted to make sure the record was
3 clear.

4 QUESTIONS BY MR. FULLER:

5 Q. And in her declaration,
6 Ms. Carter states that she's a group
7 supervisor assigned to the Drug Enforcement
8 Administration, Seattle Division, in Seattle,
9 Washington; is that correct?

10 A. That's what this states, yes.

11 Q. Okay. And if you'll turn to
12 page 13, the bottom paragraph D, this is part
13 of her investigative declaration. She says,
14 "October 5 of 2010, Mr. Moellering and
15 Mr." --

16 Is it Moro? Do you know
17 Mr. Moro?

18 A. No, sir, I don't.

19 Q. -- "Mr. Moro conduct a site
20 visit and notes from this particular site
21 visit reflect the following: CAH, PBC, Lenny
22 Moro, has observed -- has observed groups of
23 white males and females coming into the
24 pharmacy during his late afternoon visit to
25 have their scripts filled. They leave in

1 small groups."

2 The report further stated:

3 "Owner requested increase in oxycodone
4 threshold. Even higher dispensing data
5 revealed that 462,766 {sic} units of
6 hydrocodone dispensed within two months."

7 This is what apparently
8 Mr. Moellering tells the agent -- or excuse
9 me, is written in Mr. Moellering's report.

10 "I am not convinced that the
11 owner is being forthright pertaining to his
12 customers' origin or residence. I have
13 requested permission to contact the DEA to
14 resolve this issue. High risk of diversion."

15 If you get this type of report,
16 you're going to allow Mr. Moellering to
17 contact the DEA, and you're actually going to
18 encourage it, aren't you?

19 MS. WICHT: Objection.

20 Foundation. Calls for speculation.

21 THE WITNESS: I'm not going to
22 allow anything when it comes to
23 contacting the DEA. That would have
24 to go through his -- that would have
25 to go through his direct reports.

1 QUESTIONS BY MR. FULLER:

2 Q. Well, let me ask: If you were
3 one of his -- if you were his direct report,
4 and based on the information that he's laid
5 out so far, would you allow him to contact
6 the DEA?

7 MS. WICHT: Objection to the
8 form of the question.

9 THE WITNESS: I'm not going to
10 hypothetically say anything. This
11 sounds like to me that this would be
12 legal. There would be all kinds of
13 information -- or people involved.

14 QUESTIONS BY MR. FULLER:

15 Q. Okay. But so far -- you mean
16 the legal department?

17 A. Yes.

18 Q. Or you mean this activity's
19 certainly legal?

20 A. No, this would be a legal
21 department matter that -- that's where I
22 would have raised it to, so...

23 Q. If there was a threshold hit --
24 therefore, this would be for your review --
25 you send out a site investigator, which

1 you've told us you had the ability to do, and
2 this is the type of report that comes back,
3 do you clear that order or do you cut it?

4 MS. WICHT: Objection to the
5 form of the question on the
6 hypothetical.

7 THE WITNESS: I would have cut
8 the order.

9 QUESTIONS BY MR. FULLER:

10 Q. If you go to the next
11 paragraph.

12 A. Uh-huh.

13 Q. "Despite Mr. Moellering's
14 findings and recommendations, Cardinal
15 Lakeland did not contact the DEA. Cardinal
16 not only continued to ship oxy 30-milligram
17 tablets to Gulf Coast, but substantially
18 increased shipments to Gulf Coast shortly
19 afterwards. On November 24, 2010, Cardinal
20 adjusted the monthly volumes of oxycodone to
21 Gulf Coast from 140,000 to 207 -- 207,200.
22 Attachment 29."

23 As the person that at least for
24 a period of time reviewed suspicious orders,
25 you certainly had the training to do that,

1 would this be something that you would allow?

2 A. No.

3 MS. WICHT: Objection to the
4 form of the question.

5 QUESTIONS BY MR. FULLER:

6 Q. Why not?

7 MS. WICHT: And calls for
8 speculation.

9 THE WITNESS: Personally, I
10 wouldn't have done that.

11 Secondly, that's -- those
12 limits are over any analyst limits.

13 QUESTIONS BY MR. FULLER:

14 Q. Because they're so high, right?

15 A. No, I think that it's because
16 of the reasoning behind it. It would be --
17 need to have additional information that not
18 necessarily an analyst would have the
19 judgment call on.

20 Q. Again, because the limits are
21 so high, it's beyond the analyst's ability to
22 do it, correct?

23 Which means it had to go up
24 above the analyst level to get the approval
25 to do something like this, correct?

1 MS. WICHT: Object to the form
2 of the question.

3 THE WITNESS: There would be
4 additional levels of approval, yes.

5 QUESTIONS BY MR. FULLER:

6 Q. And you would hope that those
7 same people who have those additional levels
8 of approval would have also seen
9 Mr. Moellering's report, right?

10 MS. WICHT: Object to the form
11 of the question.

12 QUESTIONS BY MR. FULLER:

13 Q. Well, let me ask again.

14 A. I would hope -- go ahead.

15 Q. Strike the question.

16 If someone is going to request
17 a site visit, you get a site visit report,
18 you would certainly hope they would use that
19 site visit report if they're going to change
20 the threshold for that pharmacy or drugstore,
21 right?

22 MS. WICHT: Object to the form
23 of the question.

24 THE WITNESS: I don't know what
25 they would use.

1 QUESTIONS BY MR. FULLER:

2 Q. Would you? As one of the
3 senior analysts, would you use the
4 investigative report?

5 A. I would, yes.

6 Q. And you would cut this order,
7 right?

8 MS. WICHT: Object to the form
9 of the question.

10 THE WITNESS: It would depend
11 upon what was in there, what it
12 stated, if it's this report. Then,
13 yes, I would have cut the order.

14 QUESTIONS BY MR. FULLER:

15 Q. Because you would have been
16 fearful of diversion; is that right?

17 MS. WICHT: Object to the form
18 of the question.

19 THE WITNESS: I wasn't fearful
20 in my job. I would have accepted the
21 comments that were in there from the
22 investigator, so I would have cut the
23 order.

24 QUESTIONS BY MR. FULLER:

25 Q. And certainly after the 2012

1 MOU came out, I would assume, and correct me
2 if I'm wrong, that you guys made changes in
3 the system to prevent this type of conduct
4 from happening again, correct?

5 MS. WICHT: Object to the form
6 of the question.

7 THE WITNESS: 2012? I don't
8 remember when exact changes were made.

9 QUESTIONS BY MR. FULLER:

10 Q. Do you know if any changes were
11 made in response to this?

12 MS. WICHT: Object to the form
13 of the question.

14 THE WITNESS: I don't know if
15 there were anything in response to
16 this.

17 QUESTIONS BY MR. FULLER:

18 Q. Who would know?

19 A. I guess it would be the
20 decisionmakers or the people that had the
21 methodology that had put together the entire
22 program.

23 Q. And who were they? Who were
24 the decisionmakers? Tell us.

25 A. At that time it would have been

1 Michael Moné.

2 See, this is in 2010; is that
3 correct?

4 Q. That was when the orders were
5 talked about; the MOU came out in 2012. So
6 if we're talking about in response to this
7 memorandum of understanding, we're talking
8 about 2012.

9 A. In 2012 it would have been -- I
10 don't know the exact time and date of who
11 changed, but it would have been either
12 Mr. Moné or it would have been Mr. Cameron.

13 The next level would have been
14 Gilberto Quintero in either situation. They
15 both ended up reporting to him.

16 Q. And so was Cameron before or
17 after Moné? I'm just trying to pick up when
18 the change occurred between the two.

19 A. It was after Moné.

20 Q. Okay. Is that because Mr. Moné
21 got demoted or moved after the 2012 MOU came
22 out?

23 A. I don't know what the
24 reasonings were.

25 Q. Well, he got moved after the

1 2012 MOU came out, right?

2 A. He did.

3 Q. What kind of position did he
4 get; do you know?

5 A. I believe his current role
6 now -- I don't know if he's changed roles
7 again. He's in the regulatory legal area.

8 Q. Let's go to 222. Actually,
9 let's not do that. Let's look at 2967.

10 (Cardinal-Justus Exhibit 11
11 marked for identification.)

12 QUESTIONS BY MR. FULLER:

13 Q. This will be Exhibit Number 11.
14 Have you seen this document
15 before?

16 A. No, sir.

17 Q. It's entitled "Administrative
18 Memorandum of Agreement," right?

19 A. Yes.

20 Q. And it's the administrative
21 memorandum of agreement that is based on the
22 2012 investigation by the DEA, I'll represent
23 to you.

24 And if you look under the
25 background section, it talks that -- and the

1 only reason I'm going here is for the number
2 of facilities. Cardinal is registered with
3 28 facilities as distributors of Schedules II
4 through IV controlled substances.

5 Is that right? Is that what it
6 says?

7 A. It's says Schedule II
8 through V, but, yes.

9 Q. II through V, I'm sorry.

10 A. Yes.

11 Q. And then if you go down --
12 actually, let's go to the second page.
13 Halfway through that first paragraph,
14 "Cardinal admits."

15 MR. FULLER: Can you zoom in on
16 that? Thank you.

17 QUESTIONS BY MR. FULLER:

18 Q. Here's a stipulation and
19 agreement. It's a section of the document,
20 correct?

21 A. That's correct.

22 Q. All right. And it says,
23 "Cardinal admits its due diligence efforts
24 for some pharmacy customers and its
25 compliance with the 2008 MOA, in certain

1 respects, were inadequate."

2 Do you see that there?

3 A. I see that it states that.

4 Q. Did anybody talk with you and
5 determine to assist you in making sure that
6 going forward that whatever areas were
7 inadequate were fixed?

8 MS. WICHT: Object to the form
9 of the question.

10 THE WITNESS: Specifically, it
11 was a program-wide; it wasn't
12 specifically just this. We would have
13 been trained across the board for all.

14 QUESTIONS BY MR. FULLER:

15 Q. So -- and you're correct.

16 So the anti-diversion program,
17 the department, was companywide, coast to
18 coast, right?

19 A. Correct.

20 Q. So whatever policies and
21 systems were in place, good, bad or
22 indifferent, they applied to everybody?

23 A. That's correct.

24 Q. Okay. And you go down to the
25 general section, "Covered Conduct."

1 Do you see that section there?

2 A. I do see it.

3 Q. And it says, "For purposes of
4 this agreement, covered conduct shall mean
5 the following: A, conduct alleged in the
6 February 2, 2012, order to show cause." And
7 we'll skip the rest of that one.

8 "B, Failure to maintain
9 effective controls against the diversion of
10 controlled substances, including failing to
11 conduct meaningful due diligence to ensure
12 that controlled substances were not diverted
13 into other than legitimate channels,
14 including failing to conduct site visits of
15 its retail pharmacy chain customers on or
16 before May 14, 2012."

17 Do you see that section?

18 A. I do.

19 Q. Did you know that Cardinal was
20 failing to conduct site visits of its chain
21 pharmacies?

22 A. No, I did not.

23 MS. WICHT: Object to the form.

24 Mischaracterizes the document.

25

1 QUESTIONS BY MR. FULLER:

2 Q. Would it surprise you if they
3 were?

4 MS. WICHT: Object to the form.
5 Calls for speculation.

6 THE WITNESS: Yes, it would
7 have.

8 QUESTIONS BY MR. FULLER:

9 Q. Because --

10 A. That was --

11 Q. I'm sorry, go ahead.

12 A. If that was the policy, then we
13 would have followed the policy. But this
14 is -- I mean, I -- I don't know why or what
15 didn't happen.

16 Q. And as we discussed earlier,
17 all pharmacies are to be treated the same,
18 correct?

19 MS. WICHT: Object to the form
20 of the question.

21 THE WITNESS: Yes.

22 QUESTIONS BY MR. FULLER:

23 Q. Okay. If you go to C, "Failure
24 to detect and report suspicious orders of
25 controlled substances as required by 21 CFR

1 Section 1301.74(B) on or before May 14th of
2 2012."

3 Did I read that correctly,
4 ma'am?

5 A. You did.

6 Q. By this agreement, Cardinal
7 has -- covered conduct includes failing to
8 report suspicious orders.

9 Do you know what any of those
10 orders were or where they were?

11 A. No, I do not.

12 MS. WICHT: Object to the form
13 of the question.

14 QUESTIONS BY MR. FULLER:

15 Q. Now, you and I talked a little
16 bit about one of them, correct, dealing with
17 Mr. Moellering and the investigation? That
18 was one of the basis for this complaint.

19 Were you aware of that?

20 MS. WICHT: Object to the form
21 of the question.

22 THE WITNESS: Order or the
23 investigation that he did?

24 QUESTIONS BY MR. FULLER:

25 Q. His investigation was part of

1 the suspicious order that led to this
2 memorandum of understanding or memorandum of
3 agreement?

4 MS. WICHT: Object to the form
5 of the question.

6 If you have -- I have no idea
7 what's being asked. If you do, you
8 can --

9 MR. FULLER: Counsel, if you
10 could stop the side commentary. I
11 mean, under the rules you're allow to
12 object to form and preserve that,
13 absolutely, but we all know here any
14 additional commentary is only to coach
15 the witness.

16 If the witness doesn't
17 understand my question, as she's done
18 throughout the day, she can clarify.
19 She's competent of doing that.

20 MS. WICHT: I'm not coaching
21 the witness. I'm going to -- I was
22 not going to put this on the record,
23 especially in the presence of the
24 witness, but I think the questioning
25 that you're doing on this document,

1 Mike, is very misleading. You're
2 reading Covered Conduct. Those are
3 not admissions by the company. Those
4 are not things that were acknowledged
5 to have happened.

6 This witness is not a lawyer.
7 Putting this document in front of her
8 that she has never seen before and
9 asking her to comment on these things,
10 I think, is improper use of this
11 document.

12 MR. FULLER: And there you go
13 again. I'm going to ask you to stop.
14 You'll have an opportunity to cross.
15 You can point out anything you want on
16 cross. You're entitled to do that.
17 But commentary during my direct is
18 absolutely inappropriate.

19 QUESTIONS BY MR. FULLER:

20 Q. Ma'am, part of the covered
21 conduct includes failing to report suspicious
22 orders of controlled substances; is that
23 right?

24 A. That's what it says here, yes.

25 Q. And that was what the

1 anti-diversion department was supposed to
2 stop, correct?

3 MS. WICHT: Object to the form
4 of the question.

5 THE WITNESS: With our
6 processes, yes.

7 QUESTIONS BY MR. FULLER:

8 Q. Your processes went in place,
9 at least started going in place, back 2007
10 when you and Mr. Hartman came over to the
11 division.

12 And we saw that long list of
13 things that he was going to implement; is
14 that right?

15 MS. WICHT: Object to the form
16 of the question.

17 THE WITNESS: Sir, I stated
18 then I do not know what all of those
19 were, and I don't know what was in
20 systems and processes and
21 departmental. I was not in that
22 department to be in the anti-diversion
23 actual department with that type of a
24 role.
25

1 QUESTIONS BY MR. FULLER:

2 Q. And your role involved and your
3 job grew in that department, correct?

4 A. It did.

5 Q. And you gained knowledge being
6 in that department, as particularly the
7 senior analyst in that department; is that
8 right?

9 A. I did, yes.

10 Q. Now, we went through the list
11 of things he was going to implement. We were
12 able to read them and understand them.

13 You don't disagree with that,
14 correct?

15 MS. WICHT: Object to the form
16 of the question.

17 THE WITNESS: I was able to
18 read those, and that's exactly what I
19 stated then.

20 QUESTIONS BY MR. FULLER:

21 Q. Okay. So assuming that those
22 things that he had set out were implemented,
23 we can agree, at least by this agreement,
24 they didn't do the job they were intended to
25 do, because they were intended to prevent

1 diversion into -- or excuse me. They were
2 designed to prevent the delivery of
3 suspicious orders, correct?

4 A. That would be an assumption --
5 MS. WICHT: Object to the form
6 of the question.

7 THE WITNESS: -- I wouldn't
8 make.

9 MR. FULLER: All right. Bring
10 up Exhibit Number 5, Plaintiff's
11 Exhibit Number 5, please.

12 Go to page 6. There we go.

13 QUESTIONS BY MR. FULLER:

14 Q. So you go to page 6 of Exhibit
15 Number 5, it says, "Number 2, develop and
16 implement a computerized system to identify
17 and block and report suspicious orders."

18 Correct?

19 A. That's what that says, yes.

20 Q. That's a system to put in place
21 to identify and block suspicious orders. Do
22 you disagree with that?

23 MS. WICHT: Object to the form
24 of the question.

25 THE WITNESS: That's exactly

1 what it says. And as I said then, I
2 don't have any idea of what these all
3 determined or what they were supposed
4 to do. I put the document together.

5 QUESTIONS BY MR. FULLER:

6 Q. Ma'am, it says it was going to
7 be designed -- to design and implement a
8 system to identify, block and report
9 suspicious orders.

10 What do you mean you don't know
11 what the system was going to do? It was
12 designed -- doesn't it say it's designed to
13 identify, block and report suspicious orders?

14 A. And that's --

15 MS. WICHT: Object to the form
16 of the question.

17 THE WITNESS: Yes, I agree,
18 that's what that says.

19 QUESTIONS BY MR. FULLER:

20 Q. Have you heard the adage "spot,
21 stop and report"?

22 A. Yes.

23 Q. What's that? What's that mean
24 to you?

25 A. Spot, stop and report. It

1 means exactly what the words mean.

2 Q. Well, I don't -- where have you
3 heard it before?

4 A. It's kind of like stop, drop
5 and roll. It's common knowledge. This is
6 a --

7 Q. Ma'am, I'm --

8 A. -- block report, right? It's
9 to stop, block and report.

10 Q. I'm asking you: Where have you
11 heard that?

12 Stop, drop and roll I heard in
13 elementary school.

14 A. Correct.

15 Q. I didn't hear spot, stop and
16 report in elementary school.

17 A. Well, stop, spot and report, I
18 would not -- I would understand that that's
19 what that meant. We always identified it to
20 identify, block and report.

21 Q. Okay.

22 A. So stop -- what is it, stop --

23 Q. Spot, stop and report.

24 A. That's not -- I mean, yes, I
25 understand where you're going with that.

1 That's not the terms that we would have used
2 in the department when I was there at all.

3 MR. FULLER: Play video clip
4 number 4 for her.

5 (Video played.)

6 QUESTIONS BY MR. FULLER:

7 Q. Ma'am, who was that gentleman
8 that was just speaking?

9 A. That's George Barrett.

10 Q. Okay. What was his position at
11 Cardinal?

12 A. He's CEO.

13 Q. Those apparently are the terms
14 he uses, correct?

15 A. That's correct.

16 Q. And he talked about the
17 anti-diversion program, and that is what it
18 was designed to do: Spot, stop and report.

19 Isn't that what he just said?

20 A. That is what he said, yes.

21 Q. Isn't that consistent with what
22 we read here at number 2?

23 A. Yes. Identify, block and
24 report, yes.

25 Q. Well, it says, "Develop and

1 implement a computerized system to assist
2 us" -- or basically, I guess, to assist us --
3 "to identify, block and report suspicious
4 orders," correct?

5 A. That's correct.

6 Q. Okay. And my concern is is
7 that you're telling me you don't know what
8 was going on in the early part of 2007 when
9 this document was created because you were
10 just an administrative assistant.

11 You know by reading that,
12 number 2, that they were trying to implement
13 an electronic system to spot, stop and
14 report, correct?

15 MS. WICHT: Object to the form
16 of the question.

17 THE WITNESS: That's what this
18 says.

19 QUESTIONS BY MR. FULLER:

20 Q. Do you have any reason to
21 believe that they just created this document
22 to put it in a file to make it look like --

23 A. No.

24 Q. -- they were going to create a
25 system to spot, stop and report, just to give

1 lip service to that idea?

2 A. No.

3 MS. WICHT: Object to the form
4 of the question.

5 QUESTIONS BY MR. FULLER:

6 Q. So would you believe in the
7 normal course of business, in the way that
8 the anti-diversion department was operated,
9 that if they said they were going to develop
10 and implement a computerized system to
11 identify, block and report suspicious orders
12 and implement it by December of '07, that
13 they would have done that?

14 MS. WICHT: Object to the form
15 of the question.

16 THE WITNESS: Yes.

17 QUESTIONS BY MR. FULLER:

18 Q. Okay.

19 A. I would have no reason to not
20 believe that.

21 Q. Okay. And that was the normal
22 business. If you guys set out an objective
23 in that anti-diversion department, you're
24 going to try to get it done; isn't that
25 right?

1 A. That's correct.

2 Q. And part of the objective was,
3 as Mr. Barrett said, spot, stop and report,
4 correct?

5 A. Yes.

6 Q. Okay. So if we are still
7 sending out suspicious orders in 2010, 2011
8 and 2012, we know we need to do something to
9 the system; would you agree to that?

10 MS. WICHT: Object to the form
11 of the question.

12 THE WITNESS: I'm certain that
13 there was decisions made, yes.

14 QUESTIONS BY MR. FULLER:

15 Q. And decisions to improve the
16 system, right?

17 A. Yes.

18 Q. Now, but let's talk a second.
19 We've had this same obligation to spot, stop
20 and report all the way back to the time when
21 you came to the company, correct?

22 A. Correct.

23 Q. So it's not something that's
24 new to us. It's that we're trying to improve
25 the systems that we got in place; is that

1 right?

2 A. There is continuous
3 improvement, continuously always looking at
4 anything that we can do to improve, yes.

5 Q. Absolutely.

6 How many suspicious orders have
7 you reported?

8 A. I have no idea if those -- if
9 they were truly going out as suspicious
10 orders. Do you mean threshold events?

11 Q. Well, the DEA wants you to
12 report to them suspicious orders based on the
13 regulation, right?

14 A. Yes.

15 Q. Okay. Whether you call it a
16 threshold event or whatever --

17 A. Okay.

18 Q. -- how many suspicious orders,
19 threshold events, whatever you want to call
20 it, how many have you reported?

21 A. I don't have a number that I
22 could give you.

23 Q. Did you report any?

24 A. Yes.

25 Q. How many did you report for

1 Cuyahoga County?

2 A. I don't have any idea.

3 Q. How many did you report for the
4 City of Cleveland?

5 A. Again, I would not have that
6 information as to how many divided up amongst
7 any -- I don't have the total amount. I
8 don't have the individual amounts.

9 Q. How many suspicious orders did
10 you report to Summit County, or related to
11 Summit County?

12 A. I don't know.

13 Q. How many suspicious orders did
14 you report to the City of Akron?

15 A. I do not know.

16 Q. And I'll tell you, because the
17 plaintiffs are all sort of joined here,
18 that's why I'm asking separately for each
19 one.

20 A. Absolutely.

21 Q. If your answer is the same,
22 just answer the same way --

23 A. Yes.

24 Q. -- and that will roll us
25 through. I apologize for dragging it out.

1 A. That's okay.

2 Q. Now, you mentioned earlier that
3 you have staggered monthly time frames for
4 the differing pharmacies and drugstores to
5 prevent threshold events from all coming in
6 at the same time, correct?

7 A. Correct.

8 Q. That's one of the reasons, I
9 guess?

10 A. That's correct.

11 Q. And that's for workflow
12 purposes so you're not getting flooded with
13 too many threshold events all at once.
14 You're spreading them out over the month; is
15 that fair?

16 A. That's fair.

17 Q. Okay. And that's possible
18 because you have this electronic system in
19 place, correct?

20 A. Correct.

21 Q. Is there any way that you could
22 imagine, with the size diversion department
23 that you had, trying to do this threshold
24 reporting or spotting manually for all the
25 orders that are shipped by Cardinal across

1 the country?

2 MS. WICHT: Object to the form
3 of the question.

4 THE WITNESS: I can.

5 QUESTIONS BY MR. FULLER:

6 Q. So with the seven or eight
7 people that were the anti-diversion
8 department, with the millions and millions of
9 orders that are shipped every month, you
10 think there was a way to add those all up
11 manually to determine when thresholds are
12 breached?

13 A. It's very time consuming. It
14 would be very difficult to do.

15 Q. So Mr. Baranski testified
16 yesterday that in one month, one month, he
17 sends out about 1.5 million shipments.
18 That's one distribution center, correct?

19 A. Uh-huh, that's correct.

20 Q. How many do you have currently;
21 do you know?

22 A. No, I don't.

23 Q. We saw in 2012 --

24 A. 26, I think, but it's --

25 Q. Okay. We'll go with 25.

1 A. Okay.

2 Q. That would be somewhere in the
3 neighborhood of 37 and a half million sales a
4 month.

5 You think six or seven people
6 could go through 37 and a half million sales
7 a month?

8 MS. WICHT: Object to the form
9 of the question.

10 QUESTIONS BY MR. FULLER:

11 Q. Manually?

12 MS. WICHT: Foundation.

13 THE WITNESS: Sir, I don't have
14 any idea.

15 QUESTIONS BY MR. FULLER:

16 Q. Okay. Fair enough.

17 A. I don't.

18 Q. Electronic system makes it much
19 easier, doesn't it?

20 A. It does.

21 Q. And since you've been doing the
22 job, it's been in an electronic format,
23 correct?

24 A. Yes, when I was in that role,
25 it was all electronic.

1 Q. And do you know, going back
2 even earlier to the time when you started
3 with Cardinal, were there a lot of the
4 systems that they had in place were
5 automated?

6 A. I'm sorry, I -- can you
7 elaborate on that?

8 Q. Sure.

9 A. I don't mean you mean there.

10 Q. I mean, you guys are in the
11 business of distributing pills, medications,
12 controlled substances, right?

13 A. That's correct.

14 Q. Even back then when you
15 started, do you know whether or not there was
16 an automated system for tracking the number
17 of pills in all the different warehouses and
18 all the ordering systems and purchasing
19 systems and that kind of thing?

20 A. I don't know what they had in
21 the distribution centers even back then. The
22 ordering platform, I would assume, would
23 be -- one way was definitely electronic. I
24 don't know if there were other ways.

25 Q. All right. You would agree

1 with me, would you not, based on your
2 knowledge now, that the 2008 issues with the
3 immediate suspension orders and memorandums
4 of understanding, as well as the 2012 issues
5 we were just looking at, both dealt with
6 shipping of suspicious orders and potential
7 diversion, correct?

8 MS. WICHT: Object to the form
9 of the question.

10 THE WITNESS: I don't know that
11 they were suspicious orders.

12 QUESTIONS BY MR. FULLER:

13 Q. Not that they were suspicious
14 orders, but that's what the issues dealt
15 with. It was all related to suspicious order
16 obligations, correct?

17 A. It was in regards to the
18 regulatory obligations for Cardinal, yes.

19 Q. As it relates to reporting
20 suspicious orders?

21 A. Yes.

22 Q. Okay. Have you ever
23 participated with any updates with the audit
24 committee?

25 A. Updates with the audit

1 committee such as?

2 Q. Related -- and this would
3 obviously be during the time that you were
4 with the anti-diversion department. Related
5 to diversion issues or anti-diversion issues.

6 A. The internal audit team? Is
7 that what you're talking about?

8 Q. Yes, ma'am. There's an
9 internal audit team.

10 A. That's right, there's always an
11 internal audit.

12 As far as what came from that,
13 there could have been absolute changes or
14 updates or whatever term that you wanted to
15 call that. They were not necessarily called
16 out specifically because of the audit.

17 Q. And maybe we're talking about
18 something different. You tell me.

19 So the board of directors has
20 an audit committee that reports to them.

21 A. Okay.

22 Q. Do you know anything about
23 that?

24 A. No.

25 Q. Have you ever consulted with

1 them? Have they ever talked to you, to your
2 knowledge?

3 A. No.

4 Q. Okay. If we can go to Bates
5 number -- well, Document 2222.

6 (Cardinal-Justus Exhibit 12
7 marked for identification.)

8 QUESTIONS BY MR. FULLER:

9 Q. Did I already give it to you
10 guys?

11 A. What is it?

12 Q. 2222. All right. All right.

13 Ms. Justus, this is an
14 investigation report of the Special Demand
15 Committee, board of directors of Cardinal
16 Health, Inc., April 12, 2013.

17 Do you see that?

18 A. I do.

19 Q. Have you ever seen this
20 document before?

21 A. No, sir.

22 Q. Do you know anything about this
23 document?

24 A. No, sir.

25 Q. All right. I want to ask you

1 to turn to page -- and if you're looking at
2 the Bates numbers in the upper right, it's
3 going to be .14.

4 It starts off, "Monitoring
5 existing customers. Electronic sales
6 monitoring."

7 A. Okay.

8 Q. Did you find that?

9 A. I have the page.

10 Q. Okay. Now, I'll tell you --
11 explain to you a little background. So this
12 is an investigation that was conducted based
13 on a request by certain shareholders to sue
14 the executives of the company based on the
15 2012 memorandum of understanding and the
16 issues that arose there.

17 Okay?

18 A. Okay.

19 Q. And they did an investigation
20 of -- actually, hold on. Let's back up.

21 Weren't you interviewed related
22 to this?

23 A. I don't remember any of that,
24 no.

25 Q. Do you remember a Milbank, a

1 team of Milbank attorneys?

2 A. No.

3 Q. If you'll go to page 9, the
4 interviews.

5 MS. WICHT: Using the numbers
6 in the --

7 MR. FULLER: Upper right.

8 MS. WICHT: -- upper right, not
9 the page numbers?

10 MR. FULLER: Yeah, because it
11 screws up that guy.

12 MS. WICHT: Okay.

13 QUESTIONS BY MR. FULLER:

14 Q. Do you see the interview
15 section there?

16 A. I do.

17 Q. It says, "Milbank conducted
18 interviews of 20 company employees and two
19 audit committee members."

20 And then if you go on down it
21 says, "One analyst in quality and regulatory
22 affairs, Shirlene Justus."

23 A. It does.

24 Q. Do you remember that?

25 A. No, I do not.

1 Q. Well, I'm starting to wonder
2 what you remember and what you don't.

3 A. Nope.

4 Q. No recollection of that at all?

5 A. No.

6 Q. So if I asked you what they
7 asked you, you're going to say "I don't
8 remember"?

9 A. I don't remember. No.

10 Q. All right. So at least
11 apparently you were part of this
12 investigation, even though you may not
13 recall.

14 A. What is this?

15 Q. Take a moment and look at it if
16 you think it'll help you.

17 A. No, I would --

18 Q. You have no independent
19 recollection?

20 A. I really don't.

21 Q. Okay.

22 A. I don't remember ever being
23 interviewed with a team of lawyers for any of
24 this, no.

25 Q. And it may have just been one

1 person that came with your supervisor or
2 somebody else to chat with you and really
3 didn't, you know, sit down in a formal
4 setting or anything. I don't know.

5 A. Yeah, I have no idea. The
6 Milbank name does not --

7 Q. Doesn't ring a bell?

8 A. -- ring any bells, no. No.

9 Q. All right. Now, if you go back
10 to page 14, apparently you were part of this
11 investigation.

12 A. Apparently I was.

13 Q. What they say here under
14 electronic sales monitoring is, "In 2007, the
15 company began to build out the technology and
16 infrastructure for an electronic system that
17 would store data about customers and monitor
18 orders."

19 Do you see that?

20 A. I do.

21 Q. Is that consistent with the
22 other document that we looked at, Exhibit
23 Number 5, that talked about in 2007 --

24 A. It is.

25 Q. -- that they were going to

1 start building this system?

2 A. It is. That's correct.

3 MS. WICHT: You got to let him
4 finish the question so I have an
5 opportunity to object, and then you
6 can answer. Okay?

7 THE WITNESS: Okay.

8 MS. WICHT: Object to the form
9 of the question.

10 QUESTIONS BY MR. FULLER:

11 Q. And then it says, "At that
12 time, the company's data on the customers was
13 located in various places and largely on
14 paper."

15 Do you see that?

16 A. I do see that.

17 Q. It's the next sentence.

18 A. Uh-huh.

19 Q. And that would tend to indicate
20 that they didn't have an electronic system
21 before that, wouldn't it?

22 MS. WICHT: Object to the form
23 of the question.

24 QUESTIONS BY MR. FULLER:

25 Q. And if we did, why would we

1 just have began building one in 2007?

2 MS. WICHT: Same objection.

3 THE WITNESS: I don't know how
4 to decipher this. Like I said, I
5 don't know what they had before, so --

6 QUESTIONS BY MR. FULLER:

7 Q. No, but this investigation
8 indicates they just began building it in 2007
9 as far as this electronic system, correct?

10 A. Correct. We're beginning to
11 build a new system as well. That doesn't
12 mean that we don't have one now or any kind
13 of a process.

14 Q. And you said you're beginning
15 to build a new system now.

16 A new suspicious order system?

17 A. I don't know what it will end
18 up being. We're taking everything from what
19 we have, futuristic. We don't know what that
20 looks like just yet. That doesn't mean we
21 don't have a system now, is all I'm saying.

22 Q. Well --

23 A. So the terminology, there's no
24 way I can decipher all of that.

25 Q. Sure.

1 A. Okay.

2 Q. I mean, it does help us a
3 little bit, would you agree, in the next
4 sentence that says, "At that time, the
5 company's data on customers was located in
6 various places and largely on paper"?

7 Being on paper isn't
8 electronic; you would agree with me, right?

9 A. I would agree with that.

10 Q. Okay.

11 A. Do you know what the various
12 places are?

13 Q. There were a few stones down in
14 Cincinnati that they stuck things under.
15 There was a lake north of Cleveland -- no,
16 I'm kidding.

17 A. That's what I'm saying, I don't
18 know what they had prior.

19 Q. And then let's go to the next
20 sentence. "Further, there was no analytical
21 capability or realtime data for reviewing
22 orders."

23 That would tend to indicate
24 there wasn't an electronic system already in
25 place, right?

1 MS. WICHT: Object to the form
2 of the question.

3 THE WITNESS: Sir, I'm not
4 going to define this. I don't know
5 what they had.

6 QUESTIONS BY MR. FULLER:

7 Q. Okay.

8 A. I mean --

9 Q. It says what it says.

10 A. -- it says realtime data.

11 That's right, it says exactly what it says.

12 Q. And then the next sentence
13 talks about Moné, who you mentioned, and
14 Rausch, who you mentioned, right?

15 A. Yes.

16 Q. And that they were working with
17 the company's IT group to build an electronic
18 monitoring system; is that correct?

19 A. Yes, that's what that says.

20 Q. If you look at the next
21 paragraph, it says, "The company engaged
22 Deloitte" -- Deloitte? All right. I'll take
23 your word for it. I told you I'm from
24 Mississippi.

25 Ma'am, do you know in the next

1 sentence who Deloitte is?

2 A. Deloitte is a consulting firm.

3 Q. Do you recall that Cardinal
4 consulted with them?

5 A. No.

6 Q. Okay. And who is Mr. Morse?
7 Was there a Morse?

8 A. There was.

9 Q. I don't remember his first
10 name.

11 A. If you're referring to Steve
12 Morse.

13 Do you know what page or the
14 spelling of his last name?

15 Q. M-o-r-s-e.

16 A. Okay.

17 Q. Oh, it's on a later page. I
18 was just looking to see -- yeah, Steve Morse.

19 What was Mr. Morse's position;
20 do you know?

21 A. He was the director of
22 investigations or investigators.

23 Q. Okay. Was he in the
24 anti-diversion department?

25 A. Yes.

1 Q. Okay. Now, if you turn to
2 page 37, it says, "In the months
3 following" -- at the bottom, I'm sorry. It
4 talks about personnel.

5 "In the months following the
6 2012 ISO, Moné was moved from his position as
7 vice president of anti-diversion into a
8 position as an attorney in the regulatory
9 group, focusing on such things as training,
10 policy development and the company's outreach
11 efforts with Boards of Pharmacy."

12 Do you see that section?

13 A. I do.

14 Q. And then it goes on just a
15 little further down, "However, under Moné,
16 the evaluation of customers and orders had
17 been heavily focused on clinical expertise
18 and subjective judgment of the pharmacists in
19 the anti-diversion group. The goal after the
20 2012 ISO was to move toward assessing
21 customers based on more objective criteria
22 and their practical knowledge about the
23 business."

24 Do you see that?

25 A. I do.

1 Q. And so we can see that after
2 2012, Mr. Moné was moved.

3 And if we go on, "Morse was
4 moved from his position as the director of
5 investigation to a position in regulatory
6 management outside the area of control drug
7 anti-diversion."

8 Is that consistent with your
9 recollection as to what happened to Mr. Morse
10 as well, is that he was moved?

11 A. Yeah. He took a different
12 role.

13 Q. And it says, "The view was that
14 Morse was not as strategic as his former
15 position required, and there were questions
16 about his judgment."

17 Do you see that?

18 A. I do.

19 Q. Okay. Now, you worked with
20 Mr. Morse for a period of time there,
21 correct?

22 A. Yes.

23 Q. Did you see any of that
24 yourself, concerns about his judgment and the
25 way he conducted himself in that position?

1 A. No, but I didn't directly
2 report to him.

3 Q. Okay. Have you ever heard of a
4 program called WinWatcher?

5 A. Yes.

6 Q. And what is that, if you know?

7 A. It's a sales team tool.

8 Q. Does it deal with notifying
9 them of where their customers sit, where the
10 drugstore or the pharmacy sits related to its
11 thresholds?

12 A. It has that information in it.
13 I don't know that it actually notifies.
14 That's not a system that I've ever really
15 worked with. I know that it exists, and I
16 know that that information was in it, yes.

17 Q. Now, let me ask you: We've
18 talked a lot today about suspicious orders,
19 and the registrant or Cardinal's obligation
20 to report suspicious orders.

21 That has nothing to do with
22 reporting suspicious customers, correct?

23 MS. WICHT: Object to the form
24 of the question.

25 THE WITNESS: I don't know

1 that -- I don't know what you mean by
2 that.

3 QUESTIONS BY MR. FULLER:

4 Q. Sure.

5 Your obligation in reporting
6 suspicious orders is to focus on the orders
7 being placed; is that right?

8 A. Yes.

9 Q. Okay. Whether a customer looks
10 suspicious -- you're not going to wait until
11 you determine a customer is suspicious before
12 you report a suspicious order. If you get a
13 threshold event and you decide to cut it, you
14 got to cut it and report it no matter
15 whatever else is going on in the customer's
16 building, correct?

17 MS. WICHT: Object to the form
18 of the question.

19 THE WITNESS: Our policy was
20 to -- if we cut an order, we did
21 report it, yes.

22 QUESTIONS BY MR. FULLER:

23 Q. Who took over when Mr. Morse
24 moved as the director of investigations; do
25 you know?

1 A. I'm not 100 percent certain.

2 Q. Who do you think it may be?

3 A. I think it was Kimberly

4 Anna-Soisson.

5 Q. Okay. And we talked about her

6 earlier. She's a pharmacist, correct?

7 A. Right. Right.

8 Q. Okay. And that would have been

9 a move within the anti-diversion department;

10 is that correct?

11 A. That's correct.

12 Q. Is she still there today?

13 A. Yes, she is.

14 Q. And what role does she fill

15 today?

16 A. She is now over new accounts,

17 and she's -- I don't know all of her duties

18 and details.

19 Q. Is she like the new account

20 specialist that you were when you moved to

21 that --

22 A. No, she would have been a

23 director over --

24 Q. She's higher up?

25 A. Yes, and she would have been

1 over the investigators as well, just like
2 Mr. Morse.

3 Q. Now, is that still currently
4 the case, that she's over the investigators?

5 A. No, I don't believe so.

6 Q. Okay. She's just over new
7 clients?

8 A. I believe so, yes.

9 Q. And that process?

10 A. Yes. I don't know her full
11 duties and details, but I believe so, yes.

12 Q. And if you go to page 39, this
13 relates to onsite investigations.

14 A. Okay.

15 Q. If you take a look at that
16 second paragraph there: "Moreover, the
17 current director of investigations now
18 reviews each site visit report and makes a
19 concerted effort to provide timely feedback
20 and guidance. Despite this requirement in
21 the SOPs issued in 2008 the director of
22 investigations review each site visit report,
23 Morse did not do that."

24 Would that cause you any
25 concern to know that the director who is

1 responsible for reviewing all these site
2 visit reports wasn't even doing what the
3 policies and procedures, SOPs, said he was
4 supposed to do?

5 MS. WICHT: Object to the form
6 of the question.

7 THE WITNESS: Personally? Yes.

8 QUESTIONS BY MR. FULLER:

9 Q. And it's the reason you
10 have those -- we talked about it earlier.
11 The reason we have the procedures, the SOPs,
12 in place is because we want to put a system
13 in place to operate around the country, but
14 we're going to have to rely on everybody to
15 comply with that SOP, correct?

16 MS. WICHT: Object to the form
17 of the question.

18 THE WITNESS: Yes.

19 QUESTIONS BY MR. FULLER:

20 Q. Otherwise it may not work,
21 right?

22 A. It may not.

23 Q. And we would agree, would we
24 not, that in 2012 when Cardinal got hit for
25 the shipping of suspicious orders, it wasn't

1 working?

2 MS. WICHT: Object to the form
3 of the question.

4 THE WITNESS: I -- from what I
5 saw, what I did, the process was
6 working.

7 QUESTIONS BY MR. FULLER:

8 Q. So --

9 A. So I don't know what these
10 individuals did in their roles or how they
11 did. I mean, it's stated here.

12 Q. So during this time you were in
13 this department, the DEA comes in and
14 investigates, finds multiple violations, ends
15 up reaching a deal where Cardinal pays a
16 significant amount of money and agrees to
17 make significant changes and revamp its
18 system in 2012, and you think the system was
19 working the right way?

20 MS. WICHT: Object to the form
21 of the question.

22 THE WITNESS: I think these are
23 all legal documents. I think that
24 some of this -- I, not necessarily,
25 understand all of this. There are

1 things that -- the process that I was
2 in charge of and what we did, yes,
3 that process was working. And again,
4 I do not know of, I didn't see
5 anything as far as any orders that
6 were -- that were ever shipped that
7 would have ever been thought to say
8 that the process was not working.

9 That's all I know from the time that I
10 was in the department.

11 QUESTIONS BY MR. FULLER:

12 Q. Now, can you and I agree that
13 with the distribution of controlled
14 substances -- we know they're highly
15 addictive and we know they're dangerous, at
16 least according to the scheduling of them,
17 correct?

18 A. That is correct.

19 Q. Okay. With the more controlled
20 substances that we distribute, there's more
21 of a chance for diversion; would you agree?

22 MS. WICHT: Object to the form
23 of the question.

24 THE WITNESS: I think that's
25 speculation. I don't know that.

1 QUESTIONS BY MR. FULLER:

2 Q. Okay. Well, if I'm the
3 distributor and I only distribute you one
4 pill, there's only a chance of one pill being
5 diverted, right?

6 A. That's correct.

7 Q. If I distribute to you five
8 pills --

9 A. Uh-huh.

10 Q. -- there is now a chance of
11 five different pills being diverted, isn't
12 there?

13 A. It would depend upon what I did
14 with those.

15 Q. Right.

16 MS. WICHT: Object to the form
17 of the question.

18 QUESTIONS BY MR. FULLER:

19 Q. There's an opportunity to
20 divert five different pills now, correct?

21 MS. WICHT: Object to the form
22 of the question.

23 THE WITNESS: I -- I -- there's
24 a chance. It could.

25

1 QUESTIONS BY MR. FULLER:

2 Q. So, I mean, it's pure
3 probability. If there's more pills out
4 there, there's more of a chance the pills
5 could be diverted; you would agree?

6 MS. WICHT: Object to the form
7 of the question.

8 THE WITNESS: They could.

9 QUESTIONS BY MR. FULLER:

10 Q. And the system, this closed
11 system that Congress designed for us, is to
12 try to keep the pills in the legitimate
13 channel and out of the illegitimate channel;
14 would you agree with that?

15 A. I agree with that.

16 Q. And if we're putting more pills
17 in the legitimate channel, there's more of an
18 opportunity for the legitimate channel to
19 overflow into the illegitimate channel,
20 right?

21 MS. WICHT: Object to the --
22 I'm sorry. Object to the form of the
23 question.

24 THE WITNESS: If it's in the
25 legitimate channel, I would not

1 suspect it to be going to the
2 illegitimate channel.

3 QUESTIONS BY MR. FULLER:

4 Q. So as long as you distribute to
5 a registered pharmacy, then we don't expect
6 anything to go into the illegitimate channel,
7 right?

8 A. If it's --

9 MS. WICHT: Object to the form
10 of the question.

11 THE WITNESS: If it's
12 legitimate use, then that would be
13 correct, it would not be being
14 diverted.

15 QUESTIONS BY MR. FULLER:

16 Q. But we now find ourselves in an
17 opioid epidemic with over a hundred people
18 dying in our country every day from
19 opioid-related overdoses, right?

20 A. That's correct.

21 Q. So something went wrong
22 somewhere; can we agree on that?

23 MS. WICHT: Object to the form
24 of the question.

25 THE WITNESS: Sure. We can

1 agree to that.

2 QUESTIONS BY MR. FULLER:

3 Q. Maybe not. Maybe it was the
4 whole design that we're going to flood the
5 market with so many pills that a hundred-plus
6 people are going to die every day.

7 MS. WICHT: Object to the form
8 of the question, if that's a question,
9 which I don't see how it is.

10 QUESTIONS BY MR. FULLER:

11 Q. Was that the design?

12 A. It was not the Cardinal Health
13 design.

14 Q. Okay.

15 A. Nothing that I'm aware of would
16 ever state that that was the design.

17 Q. Okay. So we now find our place
18 in an epidemic, where people are dying every
19 day. It wasn't how the system was designed,
20 but we know we've had multiple failures in
21 the system, don't we?

22 MS. WICHT: Object to the form
23 of the question.

24 THE WITNESS: If that's the way
25 you want to conclude that, then, yes.

1 QUESTIONS BY MR. FULLER:

2 Q. Not just on behalf of Cardinal,
3 but we're looking at all the distributors,
4 right? Because everybody's -- well, I
5 shouldn't say everybody. There are multiple
6 distributors for controlled substances, and
7 particularly Control IIs, correct?

8 Cardinal isn't the only game in
9 town. There's others out there doing what
10 Cardinal does.

11 A. There's an entire supply chain.

12 Q. Right.

13 And there's a whole set of
14 different wholesale distributors in the
15 supply chain, right?

16 A. That's correct.

17 Q. Okay. And as wholesale
18 distributors, we have an obligation to help
19 prevent diversion by reporting suspicious
20 orders; you would agree with that?

21 A. Correct.

22 MR. FULLER: Okay. Let's take
23 another quick break.

24 VIDEOGRAPHER: We're going off
25 record. The time is 3:31.

1 (Off the record at 3:31 p.m.)

2 VIDEOGRAPHER: We're going back

3 on the record. Beginning of Media

4 File 5. The time is 3:56.

5 QUESTIONS BY MR. FULLER:

6 Q. Ms. Justus, we talked a moment
7 ago about you being interviewed as it relates
8 to Exhibit 12, right?

9 A. Yes.

10 Q. And you have no recollection of
11 that?

12 A. I do not.

13 Q. Now, that would have been
14 during your time as a senior analyst for the
15 quality and regulatory group?

16 A. That could depend upon when
17 that interview was done in 2012. I could
18 have been in the new accounts area.

19 Q. The report is actually from
20 April of '13?

21 A. The report, but when was the
22 interview --

23 Q. Right.

24 A. -- done is all I'm saying.

25 Q. Correct.

1 A. Yeah. I don't -- I didn't look
2 to see what...

3 Q. Well, the board didn't request
4 a Special Demand Committee until November 2nd
5 of 2012.

6 A. November 2nd.

7 Q. So it had to have been way --
8 some time after that, but before April of
9 '13.

10 A. Correct. So, yes, then I would
11 more likely have been in the analyst role,
12 yeah.

13 Q. So assuming we have our dates
14 right, Ms. Justus, at the time of your
15 interview, you are a senior analyst for
16 quality and regulatory issues within the
17 anti-diversion department, correct?

18 A. I was an analyst in the
19 department, yes.

20 Q. And do you have any idea why
21 this investigative committee would want to
22 have interviewed you?

23 A. No.

24 Q. During your time in that
25 position as senior analyst, did you have a

1 job title that set out exactly what your
2 duties and responsibilities were?

3 A. A job title? No.

4 Q. Or excuse me, a job
5 description.

6 A. I'm sure there was.

7 Q. Do you ever recall seeing it?

8 A. I don't recall.

9 Q. You've described to us your job
10 as dealing with and reviewing what you've
11 termed as threshold events; is that correct?

12 A. That's correct.

13 Q. Would those also be considered
14 suspicious orders?

15 MS. WICHT: Object to the form
16 of the question.

17 THE WITNESS: Not necessarily.

18 QUESTIONS BY MR. FULLER:

19 Q. Okay. You also have an
20 understanding that a registrant has to have a
21 suspicious order monitoring program, correct?

22 A. That is correct.

23 Q. Who was running the suspicious
24 order monitoring program during that time?

25 If I want to find the person

1 who can tell me what a suspicious order is,
2 what it isn't, would that be you?

3 A. If you're wanting --

4 MS. WICHT: Object to the form
5 of the question.

6 THE WITNESS: -- I mean, the
7 lead in the department would have
8 been -- in 2012 would have been
9 Gilberto.

10 QUESTIONS BY MR. FULLER:

11 Q. Okay. Who we've talked about
12 earlier and what his role and position was,
13 correct?

14 A. Correct.

15 Q. Okay. Were you also the one
16 dealt that with or had responsibilities and
17 duties for identifying and reporting
18 suspicious orders?

19 A. If the order was deemed a
20 suspicious, yes, I would have reported it.
21 Yes.

22 Q. But was that part of your job
23 is to deal with suspicious order issues?

24 A. The job details -- the job
25 details were for threshold events that I

1 would recall. A threshold event could
2 possibly be a suspicious order, so -- but not
3 all threshold events are suspicious orders,
4 so --

5 Q. And you were the person to
6 decide whether the threshold event was a
7 suspicious order and report it and cut it or
8 clear it and let it go, right?

9 MS. WICHT: Object to the form
10 of the question.

11 THE WITNESS: I would have been
12 the one that made that decision. I
13 could have definitely had others'
14 opinions, but, yes, I would have been
15 the one to do a cut, a report -- cut
16 or release in the system.

17 QUESTIONS BY MR. FULLER:

18 Q. Which means that -- again, when
19 we say cut, we're cutting it because we
20 believe it to be suspicious, we're not going
21 to ship it and we're going to report it?

22 MS. WICHT: Object to the form
23 of the question.

24 THE WITNESS: Again, I'm going
25 to say that it was over threshold. It

1 not necessarily -- it could have been
2 suspicious and, therefore, we would
3 cut or release.

4 QUESTIONS BY MR. FULLER:

5 Q. Sure.

6 A. Okay.

7 Q. But if you're reporting it --
8 you're only supposed to report suspicious
9 orders. That's what the DEA wants to know
10 about, right?

11 MS. WICHT: Object to the form
12 of the question.

13 THE WITNESS: I don't know
14 that.

15 QUESTIONS BY MR. FULLER:

16 Q. We saw the regulation.

17 A. Our process and our policy, our
18 departmental process, was that if we cut an
19 order, we reported that order.

20 Q. So do you do -- do you ever
21 label an order as suspicious or not?

22 Here's what I'm trying to
23 understand.

24 A. Okay.

25 Q. You keep using thresholds.

1 A. Correct.

2 Q. I don't care about thresholds.
3 Thresholds isn't the regulatory obligation.
4 The regulatory obligation that I showed you
5 earlier is to report suspicious orders,
6 right? We saw it.

7 A. That's what it states, yes.

8 Q. It's the Code of Federal
9 Regulations from 1971 --

10 A. Okay.

11 Q. -- that has been in place since
12 then --

13 A. Yes.

14 Q. -- has been binding on Cardinal
15 ever since they've been a registrant, right?

16 A. That's correct.

17 Q. So I want to know who's
18 responsible for reporting suspicious orders.
19 And you keep taking me to thresholds. We've
20 talked about thresholds, and now I want to
21 know about suspicious orders.

22 Do you know or do I need to
23 talk to somebody else?

24 A. I would -- at this point in
25 time in the department I would talk to --

1 Todd Cameron would be the one to give you
2 those answers.

3 Q. And he's the one that took
4 Mr. Morse's spot in 2012; is that right?

5 A. No, that's not correct.

6 Q. Who did he replace? Moné?

7 A. He is in -- yes, he's the --
8 actually he's now a senior vice president, I
9 believe, of the supply chain department,
10 anti-diversion, yes.

11 Q. And Mr. Moné was in that
12 position prior to Mr. Cameron?

13 A. That's correct.

14 Q. And do you know who held that
15 before Mr. Moné?

16 A. I do not.

17 Q. Okay. So suspicious orders I
18 need to go to Mr. Cameron or Moné, depending
19 on the time frame?

20 A. Correct.

21 Q. But yet it was your job to
22 either click and clear these threshold events
23 or cut and report them, right?

24 A. That is correct.

25 Q. We talked a little bit about

1 your training, education and experience, but
2 let me ask: What is your educational
3 background say after high school?

4 A. I have -- I attended the
5 University of Toledo, and then I finished my
6 schooling at Davis College, also in Toledo.

7 Q. Also in what?

8 A. Toledo, Ohio.

9 Q. And what was your degree in?

10 A. My degree is in travel and
11 airline office management.

12 Q. I'm guessing that doesn't help
13 with suspicious order reporting, does it?

14 A. I would say that is not the
15 priority of that degree.

16 Q. So prior to -- let's take it
17 all the way up to '07. Let's take it all the
18 way up to 2010 when you got the promotion to
19 new client specialist.

20 A. Okay.

21 Q. Prior to that, did you have any
22 experience or training or knowledge related
23 to suspicious orders and anti-diversion?

24 A. No.

25 Q. Okay. When you go into new

1 client specialist role, I'm assuming you also
2 had a job description there; is that right?

3 A. That's correct.

4 Q. And again, like we talked
5 about, this deals with permitting drugstores
6 or pharmacies as well as others to become
7 customers of Cardinal?

8 A. Yes.

9 Q. Okay. Tell me what training
10 specifically did you receive related to that
11 role.

12 A. It was internal training.

13 Q. So training provided by
14 Cardinal only?

15 A. It was on-hand training, yes.

16 Q. You say "on-hand" --

17 A. On-the-job training. It was
18 internal per Cardinal. There were parameters
19 and guidelines.

20 Q. You say "parameters and
21 guidelines," related to the training or
22 relating to how to approve a new client?

23 A. On the training of how to go
24 about approving and looking at and doing the
25 due diligence on a new client, on a new

1 customer.

2 Q. And is that the extent of your
3 training before you took on that job?

4 A. Other than the administrative,
5 what I had done myself, yes, that was the
6 first part of the training.

7 Q. Was there a second part of the
8 training with that role?

9 A. No. I'm just saying that was
10 the first time, right? Like prior -- your
11 question was prior. No, there was no prior
12 set training.

13 Q. So now you get promoted to
14 senior analyst, and there were several of you
15 in this position, correct?

16 A. Yes.

17 Q. What training did you receive
18 as a senior analyst?

19 And understanding this role,
20 you're actually basically clicking whether to
21 let an order go through or cut it, right?

22 A. That's correct.

23 Q. So what training did you
24 receive in that regard?

25 A. Again, it was internal

1 training.

2 Q. On-the-job training?

3 A. It was documented. We were
4 trained before we even, per se, started
5 looking at anything in the case management
6 system. So we had all of our tools. We
7 learned everything that we needed to for that
8 specific job role.

9 Q. And when you say "that specific
10 job role," that is senior analyst reviewing
11 threshold events?

12 A. That's correct.

13 Q. All right. Let's go to
14 Exhibit 4, the previously highlighted version
15 on page 3. This deals with the flagging
16 system that we saw earlier.

17 Do you remember talking about
18 that, Ms. Justus?

19 A. Yes.

20 Q. So in the anti-diversion
21 department, you had no knowledge of this
22 process or any of these flags; is that right?

23 MS. WICHT: Object to the form
24 of the question.

25 THE WITNESS: Which process --

1 so where on this document are you
2 looking?

3 QUESTIONS BY MR. FULLER:

4 Q. I'm on the last page related to
5 the flags.

6 A. Oh.

7 Q. Suspicious order monitoring
8 update, e-mail.

9 A. No, this was the sales reps.
10 This was not what we did. This is not
11 anything in the actual anti-diversion
12 threshold monitoring department at all. This
13 was to the sales.

14 Q. Well, and I understand it was
15 to sales. The title of the e-mail is
16 "Suspicious Order Monitoring."

17 A. Correct.

18 Q. Right?

19 And anti-diversion -- that's
20 part of anti-diversion's job is suspicious
21 order monitoring, right?

22 A. It's everybody's
23 responsibility.

24 Q. Sure.

25 A. Correct.

1 So this is a sales -- way that
2 the sales team could help to identify
3 anything. This is not what we did in the
4 actual department.

5 Q. Well, it may not have been what
6 you did, but the scope of the policy
7 indicates that it applies to quality and
8 regulatory affairs and supply chain
9 integrity, which was the anti-diversion
10 department, right?

11 MS. WICHT: Object to the form
12 of the question.

13 THE WITNESS: That's what the
14 scope says, yes.

15 QUESTIONS BY MR. FULLER:

16 Q. And those QRA and supply chain
17 integrity fell into the anti-diversion
18 department; would you agree?

19 A. I would agree.

20 Q. Okay. So sales has some sort
21 of system where they're red-flagging things,
22 and as far as you're aware, it's not even
23 brought to the attention --

24 A. It is not to my --

25 MS. WICHT: Object to the form

1 of the question.

2 QUESTIONS BY MR. FULLER:

3 Q. Hold on.

4 A. Okay.

5 Q. It's not even brought to the
6 attention -- let's do this. Let me finish,
7 let counsel object, then you can yell at me.

8 Okay?

9 A. Okay.

10 Q. All right.

11 MS. WICHT: I just -- I think
12 that was a joke. I just --

13 MR. FULLER: Yes. Yes.

14 MS. WICHT: -- for purposes of
15 the record, the witness is not yelling
16 at Mr. Fuller.

17 MR. FULLER: Well, we got
18 video, so we're safe.

19 MS. WICHT: Yes, exactly.

20 MR. FULLER: We're safe.

21 QUESTIONS BY MR. FULLER:

22 Q. So we have a system in place
23 that is red-flagging orders based on
24 substantial increases in controlled
25 substances, List Is, that the salespeople are

1 getting, but we're not even giving it to our
2 anti-diversion team as far as you're aware,
3 correct?

4 MS. WICHT: Objection to the
5 form of the question and foundation.

6 THE WITNESS: I believe that's
7 taking this out of context. Because
8 what this is saying is if there are
9 purchases -- it's not a specific
10 order. They would not be bringing an
11 order to our attention; it is to their
12 own attention. That -- if they had
13 noticed any of their customers in
14 their purchasings, because they would
15 be in charge of looking at their
16 volume of sales as a whole, that if
17 they noticed any kind of a difference
18 within these percentages, then that
19 should be a notice to them to take a
20 look at what their customers are doing
21 or why. That's what this says to me.

22 So that's my definition of this
23 document. That's why this would be
24 from Tom DeGemmis that was the senior
25 vice president. It would be in

1 regards to any kind of process or
2 program that the company was
3 implementing, would be my guess.

4 I was not on this e-mail. This
5 is something -- you're asking me a
6 question that I don't know what all of
7 this actually represents. That could
8 only be a guess as to why this went
9 out.

10 QUESTIONS BY MR. FULLER:

11 Q. Okay. The scope indicates it
12 applies to your department, fair?

13 A. And again, yes, that is fair.

14 Q. Okay.

15 A. That the anti-diversion or the
16 quality and regulatory affairs. But this is
17 an attachment to this document. The document
18 is actually created for the scope.

19 I have no idea who, why or
20 otherwise that this attachment was put on
21 this -- this document. I don't know.

22 Q. Well, somebody who created the
23 standard operating procedure clearly put it
24 into the document?

25 A. Correct. I didn't create this.

1 Q. Okay. So --

2 A. I don't know.

3 Q. -- it doesn't make it any less
4 valid because they inputted an e-mail into
5 it, does it?

6 MS. WICHT: Object to the form
7 of the question.

8 THE WITNESS: It does not.

9 QUESTIONS BY MR. FULLER:

10 Q. Okay. So let's go to the red
11 flag for a second. The red flag says that
12 it's a 15 percent increase of controlled
13 substance or List I chemical orders, right?

14 A. That's what the document says,
15 yes.

16 Q. Okay. And it says, "Customers
17 in the red flag category should be visited
18 ASAP by the PBC and/or QRA."

19 Who is PBC?

20 A. That would be a sales rep.

21 Q. Or the QRA. Who's QRA?

22 A. QRA is a vast group.

23 Q. It's quality/regulatory
24 assurance, right?

25 A. Correct.

1 Q. Okay.

2 A. Or affairs.

3 Q. "The PBC should contact
4 corporate QRA as well as the field compliance
5 officer to work with this account."

6 Who is the corporate QRA?

7 MS. WICHT: Object to the form
8 of the question.

9 THE WITNESS: There are two
10 areas.

11 QUESTIONS BY MR. FULLER:

12 Q. There's what?

13 A. There's two areas.

14 Q. Two corporate QRA areas?

15 A. Well, sir, I think I identified
16 that there was the anti-diversion department
17 and the quality and regulatory affairs and
18 ops, which are in the distribution centers.

19 Q. So who are the two QRAs? The
20 corporate QRAs, I'm sorry.

21 A. Quality and regulatory affairs.
22 Quality and regulatory affairs and ops.

23 Q. And who heads up each of those;
24 do you know?

25 A. So currently, no, I don't know

1 who handles the quality and regulatory
2 affairs and ops. I don't know.

3 The quality and regulatory
4 would be led by -- I don't know if Gilberto
5 still has all of quality and regulatory, but
6 then each of the different departments that
7 reside in there, right? So you're looking at
8 Todd Cameron currently, today, is over
9 anti-diversion.

10 Q. Okay.

11 A. Yes.

12 Q. So we can ask Mr. Cameron or
13 Mr. Gilberto, correct?

14 A. You could.

15 Q. Okay. They would probably be a
16 better one to answer that question?

17 A. That's correct.

18 Q. Got it.

19 Now, during 2012 to 2014, you
20 were providing the oversight of the threshold
21 breaches that came out of a number of
22 different facilities, including the
23 Williams -- excuse me, Wheeling distribution
24 center; is that right?

25 A. That's correct.

1 Q. Okay. And Wheeling
2 distribution center, do you know whether or
3 not it would have delivered to Cuyahoga
4 County?

5 A. I don't.

6 Q. Do you know whether or not the
7 Wheeling distribution center would have
8 delivered to Summit County or the cities
9 therein?

10 A. I don't.

11 Q. Okay. And I'm assuming you
12 don't know whether it delivered to the City
13 of Cleveland?

14 A. I don't.

15 Q. And do you know whether the
16 Wheeling distribution center delivered to the
17 City of Akron?

18 A. I don't.

19 Q. Okay. I'm going to represent
20 to you that Mr. Baranski, who is the director
21 of operations for that distribution center,
22 the Wheeling distribution center --

23 A. Yes.

24 Q. -- who has been there since
25 2004, 2005 --

1 A. Uh-huh.

2 Q. -- has indicated that he has
3 delivered to Summit County and the cities
4 therein, and that Mr. Baranski has delivered
5 to Summit -- what did I say Summit? --
6 Cuyahoga and the cities therein.

7 A. Uh-huh.

8 Q. So that would have been an area
9 under your purview during the time that you
10 were the senior analyst; is that correct?

11 A. That's correct.

12 Q. So any threshold events that
13 come out of there would come to you; is that
14 right?

15 A. They should.

16 Q. And because of the electronic
17 system, do you usually get them immediately?
18 Meaning that if someone places
19 an order, say, today, Friday the 13th, is
20 what it happens to be, at noon, how long will
21 it take for that order to make it to your
22 computer? Any idea?

23 A. Without any kind of system
24 failure at all, it would be maximum 10
25 minutes, maximum 15 --

1 Q. Okay.

2 A. -- minutes, yes. It would be
3 put --

4 Q. Very quick?

5 A. Yes.

6 Q. Is that an automated process
7 that it goes through to get to you, or is
8 there some manual mechanism?

9 A. It's automatic.

10 Q. Okay.

11 A. It's all automated.

12 Q. And when it gets to you, it has
13 that case file that we were talking about
14 earlier, all the initial information that
15 you'll need to review; is that correct?

16 A. It has --

17 Q. And my terminology may be off.

18 A. Yeah. So it would have with it
19 the threshold value, the accrual value or
20 what we had shipped, yes, the drug family.
21 Those pieces of information would come
22 directly in that case.

23 Q. So can we call that information
24 the initial information?

25 A. Sure.

1 Q. So if a threshold event happens
2 in anywhere that the Wheeling distribution
3 center is distributing, that threshold event
4 is going to come to you within a matter of 10
5 to 15 minutes and come to you with the
6 initial information; is that right?

7 A. That's correct.

8 MR. FULLER: Okay. Evan, if
9 you can bring up the Excel spreadsheet
10 for me.

11 Counsel, what this is, is this
12 is the Excel spreadsheet, Bates
13 number 13, which that probably doesn't
14 mean much, but it is the suspicious
15 order reports that were previously
16 produced. It's Bates number 13
17 related to the respective Track 1
18 plaintiffs from 1/1/13 through
19 approximately May of '18.

20 QUESTIONS BY MR. FULLER:

21 Q. So, Ms. Justus, if these are
22 suspicious order reports beginning on
23 January 1st of '13, this would have been part
24 of your time frame. Because, as I indicated,
25 it goes all the way up to '18, and you're no

1 longer in this senior analyst role; is that
2 right?

3 A. That's correct.

4 Q. Okay. And do you get the
5 information like we're seeing it here on the
6 spreadsheet where it has customer name,
7 customer address, city, county, drug
8 family -- if you'll move to the right,
9 please -- the drug family name, so forth and
10 so on?

11 A. What we see is not this. This
12 information is included, yes.

13 Q. Okay.

14 A. Yes.

15 Q. May be in a different format?

16 A. Correct. That's all I'm
17 saying. It would not look like this, but
18 that would be the data that we would be
19 provided.

20 Q. At least some of it?

21 A. Correct.

22 Q. Okay. So if you'll go over to
23 the left, please.

24 So the registrant DEA column,
25 that appears to be the DEA number for

1 whatever pharmacy or drugstore we're looking
2 at; is that right?

3 A. No.

4 Q. Okay. What is the registrant
5 DEA then?

6 A. In this case, it would be for
7 whichever distribution center that you're
8 looking at.

9 Q. Okay. So this is all for the
10 Wheeling distribution center?

11 A. It's all the same.

12 Q. Okay.

13 A. The column G would be the
14 customer DEA number.

15 Q. Got it.

16 MR. FULLER: Expand column B
17 for me a little bit for me.

18 QUESTIONS BY MR. FULLER:

19 Q. Transaction code. What does a
20 transaction code mean; do you know?

21 A. I don't not in this, huh-uh.

22 Q. Action indicator, those are
23 blank. Let's go to the NDNC -- or NDC.

24 What's an NDC number; do you
25 know?

1 A. It's an industry standard for
2 product.

3 Q. And from that, you can tell
4 what the drug is, who made it, the size of
5 it, how it's packaged, that kind of thing,
6 right, or do you know?

7 A. You can, with a description.

8 Q. Yeah, I mean, looking at it --

9 A. Yeah, like I don't know those
10 numbers.

11 Q. Got it.

12 A. Okay. Okay. Yes, but -- yes,
13 that's the information that comes with the
14 NDC. That's how it's industry standard, yes.

15 Q. Okay. So next we have the
16 customer DEA number, and as you've pointed
17 out to me, that is the DEA number for the --
18 whoever is doing the ordering?

19 A. Correct.

20 Q. And then we have order form
21 number. What is that; do you know?

22 A. Looking at it, it looks like it
23 would be a DEA 222 number.

24 Q. Okay.

25 A. It's a form number.

1 Q. And DEA 222, that's a form
2 that's used to order, place orders with as
3 far as a customer is concerned, or drugstore
4 or pharmacy, right?

5 A. Yes.

6 Q. Okay. And then we have overage
7 date. Now, that would be the date that they
8 exceed the threshold; is that correct?

9 A. It should be, yes.

10 Q. Okay. And then correction
11 number, I don't know what that is.

12 A. I don't either.

13 Q. Okay. We're in the same boat.
14 Transaction identifier, do you
15 know what that is?

16 A. No, I don't.

17 Q. Okay. Then we have the
18 customer name. That's pretty
19 self-explanatory, right?

20 A. Correct.

21 Q. Customer address, we know who
22 that is or what that's for, city, state, ZIP
23 code.

24 Now, drug family. Explain to
25 us what the drug family is.

1 A. A drug family is identified or
2 is provided by the DEA all -- all drugs
3 within the drug family, it has the same
4 active ingredient.

5 Q. And, therefore, they have all
6 the same drug numbers, the drug family
7 numbers, right?

8 A. If it's in the -- if it has the
9 same active ingredient, yes.

10 Q. Okay. Then we have the drug
11 family name, which I'm assuming corresponds
12 with the drug family number; is that fair?

13 A. Yes.

14 Q. And then I think the last two
15 columns, one says, "reported to state by
16 e-mail," the other "reported to state by
17 fax."

18 And I'm assuming that's just
19 self-explanatory as to how it was reported?

20 A. Yes.

21 Q. Okay. So if -- if what I'm
22 telling you is accurate -- and being produced
23 by the defendants, I'm sure it is -- that
24 these are the suspicious orders -- if you'll
25 go up to the top, please. I want to see the

1 top of the date. There you go -- these start
2 in, appears to be, February of '13.

3 Do you see that there?

4 A. Yes.

5 Q. And that would be a time frame
6 in which you were in this role as the senior
7 analyst; is that right?

8 A. That would be correct.

9 Q. And then these would be orders
10 that would be coming to you as threshold
11 breaches or overages?

12 A. Correct.

13 Q. And at that point you would go
14 through the process that we discussed
15 earlier, and on these you would have cut the
16 number or cut the order and would have
17 reported this to the DEA; is that right?

18 A. If I --

19 MS. WICHT: Object to the form
20 of the question. Sorry.

21 THE WITNESS: That's okay.

22 If it was a cut order, then,
23 yes, it would have been reported.

24 QUESTIONS BY MR. FULLER:

25 Q. So what I've been told is these

1 are the suspicious orders that were reported.
2 So that would mean they would have had to
3 have been cut, because you can't ship them if
4 you're going to report them, right?

5 MS. WICHT: Object to the form
6 of the question.

7 THE WITNESS: That would be
8 correct, but there's nothing on here
9 that tells me what decision was made
10 or how that decision was made.

11 QUESTIONS BY MR. FULLER:

12 Q. Well --

13 A. So and I don't know where that
14 report came from if I'm looking --

15 Q. Let me -- let me --

16 A. Go ahead.

17 Q. -- see if I can clarify.

18 A. Uh-huh.

19 Q. I've been told that these are
20 threshold -- well, they appear to have
21 overage dates, which means they're threshold
22 events, right?

23 A. Uh-huh.

24 Q. Is that a yes?

25 A. Yes.

1 Q. The threshold events, I was
2 also told that these have been the ones that
3 were reported to the DEA, which based on the
4 system that you explained to us earlier,
5 would mean these were cut and reported,
6 correct?

7 Did you report threshold events
8 to the DEA that you still shipped?

9 A. I don't know where this report
10 even came from. That's what I'm saying.

11 Q. Your counsel.

12 A. Okay.

13 Q. That --

14 A. So this came from the case
15 management system is where they ran these
16 reports.

17 Q. I have no idea where they ran
18 these reports. They may have retyped this
19 information. I -- that's not anything I'm
20 entitled or that I know at this point, at
21 least.

22 A. Okay.

23 Q. They have produced this
24 document --

25 A. Uh-huh.

1 Q. -- and said, "Plaintiffs, these
2 are the suspicious order reports that we
3 provided to the DEA and the State of Ohio
4 from 1/1/13 until" -- the last one is about
5 May of '18 --

6 A. Okay.

7 Q. -- "for Cuyahoga and Summit
8 Counties."

9 Okay?

10 A. Uh-huh.

11 Q. So what I want to make sure of
12 is that because these were reported to the
13 DEA, that these must have been threshold
14 events that were cut, not shipped?

15 A. I -- again, I haven't seen
16 anything in the case management system. I
17 would not -- I'm not going to validate a
18 report that I have no idea -- granted, if it
19 came from counsel, then they should probably
20 answer that because I do not know where this
21 came from.

22 The ruling, the process --

23 Q. Yes, ma'am --

24 A. -- is a cut order gets
25 reported.

1 Q. Did you report threshold events
2 that you still shipped?

3 A. To my knowledge, no.

4 Q. Okay. So if we have a
5 threshold event that was shipped, it's not
6 going to show up as being reported to the
7 DEA, assuming that system is the way you just
8 said it is?

9 A. Correct.

10 Q. Okay. And if we have a
11 threshold event that we cut, we're no longer
12 going to -- from what you've told me already
13 or testified to, we're no longer going to
14 distribute that drug family to that customer,
15 that drugstore or pharmacy, at least until
16 the new cycle begins?

17 A. That should be correct.

18 Q. Okay. After the new cycle
19 begins, they're now on a new threshold, so
20 we'll ship to them? Their threshold is
21 reset?

22 A. Their threshold is reset.
23 Thank you.

24 Q. So we'll ship to them?

25 A. Correct.

1 Q. Got it. All right.

2 A. So if there was a change in
3 threshold, then --

4 Q. Then we wouldn't -- so --

5 A. We would not have reported,
6 right.

7 So -- okay.

8 Q. You got it.

9 A. All right.

10 Q. You and I.

11 A. All right.

12 Q. All right. So what Cardinal
13 also produced to the plaintiffs --

14 A. Yes.

15 Q. -- is the transactional data
16 for Summit County. They've also produced the
17 transactional data for Cuyahoga County for
18 the same time frame.

19 And what I've done is if you go
20 to the merged data is I've overlaid the two
21 of them. Okay?

22 So what I have done --

23 MR. FULLER: And I have a thumb
24 drive I'll give the court reporter
25 with this, as well as counsel.

1 Actually can I have those now? Thumb
2 drives.

3 (Cardinal-Justus Exhibit 13
4 marked for identification.)

5 MR. FULLER: All right. And
6 we're attaching the thumb drive for
7 this Excel spreadsheet as Plaintiff's
8 Exhibit 13.

9 So, Evan, if you'll go back to
10 the macro.

11 QUESTIONS BY MR. FULLER:

12 Q. And let me ask before we start
13 going through this: When in 2014, the best
14 you can recall, did you move out of senior
15 analyst position to your new spot?

16 A. August.

17 Q. Sometime around about August of
18 '14?

19 A. That's correct.

20 Q. And that would have cut off
21 your responsibilities related to senior
22 analyst work; is that right?

23 A. That's correct.

24 MR. FULLER: Okay. So, Evan,
25 if you'll put in row number 3,

1 suspicious order number 3 for me.

2 And, Counsel, the way this
3 works, what you're looking at now, is
4 the macro. Whatever number you plug
5 in will be the corresponding line on
6 the Bates number 13, the list of
7 suspicious orders.

8 And when you click the purple
9 language there -- go ahead -- it will
10 bring up that suspicious order and
11 then the subsequent orders provided to
12 that particular customer or pharmacy
13 from the same drug family.

14 QUESTIONS BY MR. FULLER:

15 Q. And, Ms. Justus, correct me if
16 I'm wrong, but that's what we would want to
17 look at to make sure our system was working,
18 is if we have a suspicious order we reported,
19 we would want to look at subsequent orders to
20 that pharmacy for the same drug family and
21 when they were filled, correct?

22 MS. WICHT: Object to the form
23 of the question and foundation.

24 THE WITNESS: That's what I
25 just understood, yes.

1 QUESTIONS BY MR. FULLER:

2 Q. Okay. So what we have there in
3 blue is the suspicious order report that was
4 held for Ohio CVS store -- expand that a
5 little bit for me -- LLC, which is at 2007
6 Brookpark Road in Cleveland -- hold on.
7 Department, same information.

8 MR. FULLER: If you go across,
9 go ahead and go across to the date, it
10 says suspicious orders are going to be
11 in blue. The shipped orders are going
12 to be in white. And what we see is
13 the buprenorphine.

14 QUESTIONS BY MR. FULLER:

15 Q. There was an order quantity of
16 39, right?

17 Is that what it indicates,
18 Ms. Justus?

19 A. Yes.

20 Q. On February of '13 -- excuse
21 me, February 14 of '13, that was reported.
22 And then it also indicates on the 14th there
23 was an order shipped for that buprenorphine
24 of 20 units, and 20 units were shipped on the
25 14th.

1 Do you see that as well?

2 A. I do.

3 Q. Now, do you have an
4 understanding of how your distribution
5 centers work?

6 A. I do not.

7 MS. WICHT: Object to the form
8 of the question.

9 QUESTIONS BY MR. FULLER:

10 Q. According to Mr. Baranski,
11 they'll take orders up till sometime in the
12 evening, and it's the night shift that
13 actually loads the trucks and the trucks will
14 leave that evening.

15 So if this order on the 14th
16 didn't come to you until sometime during the
17 day on the 14th, it would be very possible
18 that the order was actually on -- that was
19 delivered on the 14th of the same substance
20 was actually placed the day before and being
21 delivered earlier before you would have
22 received what you flagged as a threshold
23 event, correct?

24 MS. WICHT: Object to the form
25 of the question.

1 THE WITNESS: You're going to
2 have to repeat that.

3 QUESTIONS BY MR. FULLER:

4 Q. Sure. Sure.

5 A. Check on that timing there
6 because --

7 Q. So Mr. Baranski -- well, the
8 testimony has been --

9 A. Uh-huh.

10 Q. -- that Cardinal's trucks leave
11 very, very early in the morning or in the
12 middle of the night depending on where
13 they're going to deliver products.

14 A. Okay.

15 Q. Okay?

16 A. Uh-huh.

17 Q. So a truck may have been sent
18 out on the 14th, very early morning hours,
19 before you, during daytime hours, received a
20 suspicious order or a threshold event,
21 correct?

22 MS. WICHT: Object to the form
23 of the question.

24 QUESTIONS BY MR. FULLER:

25 Q. All right. Let's not even

1 worry about it.

2 A. Yeah.

3 Q. You held a suspicious order,
4 and a suspicious order was reported to the
5 DEA --

6 A. Okay.

7 Q. -- with an overage date of
8 2/14/13.

9 A. Okay.

10 Q. There are 20 units of that same
11 drug family shipped on that same day.

12 Based on what you've told us,
13 that should not happen; would you agree?

14 MS. WICHT: Object to the form
15 of the question.

16 THE WITNESS: Could you move
17 that screen to the left, please?

18 Now, that line number that's in
19 blue, that does not have -- can you
20 scroll back to the right?

21 Why does that line not have the
22 item description like the other lines
23 and the strengths? Is that --

24 QUESTIONS BY MR. FULLER:

25 Q. That would be a question for

1 your counsel.

2 A. Okay.

3 Q. Let me ask you: Does it matter
4 if you're holding a drug family --

5 MR. FULLER: Whoever is, like,
6 jumping around on their phone or
7 cooking, according to Cardinal's
8 counsel, please stop or else mute your
9 phone.

10 Thank you.

11 QUESTIONS BY MR. FULLER:

12 Q. I don't know why that dosage
13 information is not filled in.

14 A. I don't either.

15 And with what's in front of me,
16 the policy is to not ship subsequent orders,
17 so...

18 Q. And so then the order that was
19 shipped on the 18th and then the 20th, 21st,
20 22nd, 27th, may also violate that policy; is
21 that correct?

22 MS. WICHT: Object to the form
23 of the question and no foundation.

24 THE WITNESS: There's no way to
25 tell from this report.

1 QUESTIONS BY MR. FULLER:

2 Q. And why is that?

3 A. Because -- do you have the
4 threshold value on there?

5 Because even if we cut that and
6 we decided that that was a -- that we were
7 not going to ship that, if there was any kind
8 of research done or needed to be done,
9 anything that we had a reason for it, we
10 could have changed a threshold on that, and
11 then that would have allowed the next order
12 to go through because it would have been
13 under threshold.

14 Q. And we should see that document
15 in the diligence file, right?

16 A. In the which file?

17 Q. Diligence file, the one that
18 you've talked about earlier.

19 A. It should be in that -- it
20 should be, yes.

21 Q. And if it's not, then we have
22 an issue?

23 MS. WICHT: Object to the form
24 of the question.

25

1 QUESTIONS BY MR. FULLER:

2 Q. Would you agree with me?

3 MS. WICHT: I'm sorry. Object
4 to the form of the question.

5 THE WITNESS: I don't know if
6 there's an issue there or not.

7 QUESTIONS BY MR. FULLER:

8 Q. Well, if that's not the case,
9 if we are shipping orders for a drug family
10 which has been cut on previous orders --

11 A. Uh-huh.

12 Q. -- that's not right. You would
13 agree with that?

14 MS. WICHT: Object to the form
15 of the question. No foundation and it
16 mischaracterizes her prior testimony.

17 THE WITNESS: If there is a
18 reason for it, it should be
19 documented.

20 QUESTIONS BY MR. FULLER:

21 Q. And if there is no reason for
22 it, it shouldn't happen, right?

23 MS. WICHT: Object to the form
24 of the question.

25 THE WITNESS: I would agree

1 that it should not happen.

2 MR. FULLER: Evan, let's go to
3 macro number 2.

4 QUESTIONS BY MR. FULLER:

5 Q. This is the suspicious order
6 reporting but this time for a Skilled Cared
7 Pharmacy.

8 Do you see that?

9 A. I do.

10 Q. And then the order is for the
11 Skilled Care Pharmacy, same address, same
12 customer DEA number, right?

13 A. Yes, I agree. Yes.

14 MR. FULLER: If you move to the
15 right for me.

16 QUESTIONS BY MR. FULLER:

17 Q. And the date of the suspicious
18 order report or overage is February 14th, and
19 then product from the same drug family was
20 shipped on the 18th and 22nd.

21 Do you see that?

22 A. I do.

23 Q. Now, you would expect to see
24 some sort of explanation again in the
25 diligence file; is that right?

1 MS. WICHT: Object to the form
2 of the question and no foundation.

3 THE WITNESS: It should be
4 there.

5 QUESTIONS BY MR. FULLER:

6 Q. Okay. And was that your
7 standard practice?

8 If you were going to change a
9 threshold or if you were going to clear
10 something or allow future shipments to go
11 through, you would have documented your
12 reasoning behind that, why you were doing
13 that?

14 MS. WICHT: Object to the form
15 of the question.

16 QUESTIONS BY MR. FULLER:

17 Q. Correct?

18 A. I should have, yes.

19 Q. That was your normal procedure?

20 A. Yes, that would have been what
21 I should have done, yes.

22 Q. Okay. And you -- sitting here
23 today, you don't know whether you did or
24 didn't?

25 A. I have no idea whether I did or

1 not.

2 Q. All right. I know we're
3 talking about things about five years ago.

4 A. Exactly. Right.

5 Q. Got it.

6 A. Absolutely.

7 Q. Just want to know what your
8 normal course was.

9 A. Yes, that is normal course.

10 Q. What would also be helpful to
11 know in looking at this is what monthly cycle
12 you had these different pharmacies on, right?

13 A. That is correct.

14 Q. So, for example, if you were on
15 a -- I'm going to make up a date --
16 January 15th to February 15th cycle, you
17 could have a threshold event or overage and a
18 hold on the 14th, and then the 18th when the
19 threshold resets, you could ship again,
20 right?

21 A. That is correct.

22 Q. Okay. So that might be what
23 explains what happened here?

24 A. Could.

25 Q. We don't know until we get

1 ahold of that information?

2 A. That's correct.

3 Q. Okay. Let's go to number 30,
4 macro 30, please.

5 Same thing here. Here we're
6 looking at a Walgreens, which is a chain
7 pharmacy, you can agree, right?

8 A. That's correct.

9 Q. Okay. And there are multiple
10 suspicious orders before -- and let's just
11 confirm.

12 The customer DEA number is the
13 same all the way down; is that right?

14 A. That's correct.

15 Q. Let's move to the right. And
16 the family we're looking at here is
17 hydrocodone; is that correct?

18 A. That's correct.

19 Q. And let's look, for example, on
20 the 20th there's three threshold events.

21 Could that have been three
22 separate orders for different dosages?

23 A. It could have been, yes.

24 MS. WICHT: Object to the form
25 of the question.

1 QUESTIONS BY MR. FULLER:

2 Q. Okay. And then on the 21st,
3 23rd, 23rd, 27th and 27th, there were
4 hydrocodone products, at least according to
5 this document, this spreadsheet, shipped to
6 that Walgreens pharmacy; is that right?

7 A. That's what this looks like,
8 yes.

9 Q. And again, the way the system
10 was set up and the procedures in place, you
11 would expect to see some documentation for
12 these events in the diligence file for
13 this particular Walgreens pharmacy; is that
14 right?

15 MS. WICHT: Object to the form
16 of the question and foundation.

17 THE WITNESS: I -- there should
18 be some kind of documentation.

19 QUESTIONS BY MR. FULLER:

20 Q. And we would also want to know,
21 again, what cycle this particular pharmacy is
22 on?

23 A. That's correct.

24 Q. Where would we find that
25 information as far as the cycle?

1 A. It would have to be from a
2 report that -- the case management system
3 should be able to show that or the customer
4 file that's within Cardinal's systems would
5 have that as well.

6 Q. All right. Ma'am, I have
7 additional examples that I could show you of
8 the same thing, but if I asked you similar
9 questions, would your answers be the same?

10 A. Yes, sir.

11 MS. WICHT: Object to the form
12 of the question.

13 MR. FULLER: Let's take a quick
14 break, let me look at my notes, see if
15 I've got anything else, and then maybe
16 we can get you on your way, assuming
17 she doesn't have hours and hours of
18 questions.

19 VIDEOGRAPHER: Going off the
20 record. The time is 4:49.

21 (Off the record at 4:49 p.m.)

22 VIDEOGRAPHER: We are going
23 back on the record. Beginning of
24 Media File Number 6. The time is
25 5:05.

1 QUESTIONS BY MR. FULLER:

2 Q. Ms. Justus, we were looking at
3 Exhibit 13, that spreadsheet -- well, not
4 Exhibit 13. It was actually Exhibit 13.

5 The Bates number 13, which
6 included the -- what I've been told are the
7 suspicious order reports, that's not actually
8 how a suspicious order gets reported, is it,
9 that line that we saw on that Excel
10 spreadsheet you were looking at?

11 A. From that report -- it's
12 systematic, so I don't know what it would
13 look like.

14 MR. FULLER: Tab 13. Or the
15 Bates number. No. No. No. No.
16 There you go.

17 QUESTIONS BY MR. FULLER:

18 Q. Okay. So the suspicious order
19 report that you would file is automated?

20 A. Yes. I mean -- yes, we
21 would -- our responsibility was just to note
22 that that order would be reported to the DEA,
23 and then --

24 Q. You say "our responsibility."
25 Are you talking about --

1 A. The analyst.

2 Q. Okay.

3 A. During that frame between 2010
4 and 2012, the responsibility of the analyst,
5 if they were going to cut an order, they
6 would report it to the DEA. So it is flagged
7 to mark as report to the DEA.

8 Q. So what about 2012 to 2014?

9 A. My apologies. 2012 to 2014, it
10 was the years that I was as an analyst, yes.

11 Q. So you didn't actually do the
12 reporting yourself?

13 A. No.

14 Q. Do you actually know if
15 anything that you cut was actually reported?

16 A. I would have no reason to
17 believe otherwise.

18 Q. That's the process that was in
19 place?

20 A. That's correct.

21 Q. And you expected others who got
22 notified of your cutting to follow the
23 process?

24 A. That's correct.

25 Q. You don't know one way or

1 another as you sit here today?

2 A. That would be correct as well.

3 Q. And during the time frame you
4 were not notified whether one was actually
5 reported or not?

6 A. No, I was not.

7 Q. You wouldn't get any sort of
8 automated e-mail or anything that says it was
9 reported?

10 A. No.

11 Q. Do you know where it was
12 reported? Local DEA? Headquarters? Any
13 idea?

14 A. To my knowledge, it would have
15 been to local and to federal. I don't know
16 that. I mean, that was --

17 Q. That's just your understanding?

18 A. That is my understanding.

19 Q. From working in the department?

20 A. Correct.

21 Q. Okay. Do you know what
22 additional information would have been
23 included in those suspicious order reports?

24 A. I don't.

25 Q. And while I have information

1 that's been provided only from 2012 -- or
2 excuse me, 1/1/2013 forward, you were in this
3 role going backwards to sometime back in
4 2012; is that right?

5 A. That's correct.

6 Q. And do you know when the actual
7 change from new client analyst to senior
8 analyst happened?

9 A. I don't exactly know.

10 Q. Okay. So there may be
11 additional information, additional suspicious
12 orders, that you spotted for Cuyahoga,
13 correct?

14 MS. WICHT: Object to the form
15 of the question.

16 QUESTIONS BY MR. FULLER:

17 Q. There may have been additional
18 orders you cut that got reported as
19 suspicious prior to 1/1/13, from the
20 information we have here, going back to when
21 you began as an analyst; is that right?

22 A. It could be, depending upon
23 that date, sure.

24 Q. And here's where I'm going to
25 go through my four different entities, okay,

1 so bear with me.

2 A. Uh-huh.

3 Q. So there could be additional
4 suspicious orders that you yourself -- or
5 orders that you cut and were reported to DEA
6 for Summit County prior to 1/1/13?

7 A. There could be.

8 Q. There could be additional
9 orders that you cut and reported to the DEA
10 for the City of Cleveland prior to 1/1/13,
11 correct?

12 A. There could be.

13 Q. And there could be prior orders
14 that you cut and reported to the DEA for
15 Akron, Ohio, prior to 1/1/13 which we have
16 here?

17 A. There could be, yes.

18 MR. FULLER: Okay. And with
19 that limited qualifier, I'll reserve
20 to ask to come back and chat with you
21 again. I don't know that it's going
22 to be necessary, but my understanding
23 is they're working on getting us the
24 additional information going back
25 further. If there's any questions I

1 have, I may touch base with your
2 counsel on that issue.

3 Okay?

4 THE WITNESS: Yes, that's fine.

5 MR. FULLER: I don't have any
6 further questions.

7 MS. WICHT: Okay. I have
8 probably five minutes or less, I would
9 say.

10 MR. FULLER: Never make that
11 kind of guarantee. Are you kidding
12 me?

13 MS. WICHT: Do you have a
14 preference? Can I just do it from
15 here? Is that okay?

16 CROSS-EXAMINATION

17 QUESTIONS BY MS. WICHT:

18 Q. Okay. Good afternoon,
19 Ms. Justus. I know it's been a long day, so
20 I don't have very much for you.

21 A. Okay.

22 Q. Do you recall earlier today
23 Mr. Fuller was asking you some questions
24 about the 2012 immediate suspension order of
25 the Lakeland distribution center?

1 Do you recall that?

2 A. Yes.

3 Q. Okay. And I'm going to go back
4 to just a couple of the documents that
5 Mr. Fuller showed you on that subject.

6 So if you would take a look,
7 please, at what was marked as Exhibit 10,
8 please, which is the declaration of Ruth
9 Carter from the DEA.

10 A. Yes.

11 Q. And if you want to turn to
12 page 13 of the document, please.

13 A. Yes.

14 Q. So let me first ask you: I
15 think you said that you came into the analyst
16 role sometime in 2012, correct?

17 A. Yes, that would be correct.

18 Q. So prior to whenever in 2012
19 that was that you came into that role, you
20 were not responsible for reviewing any
21 threshold events out of the Lakeland
22 distribution center; is that right?

23 A. That is correct.

24 Q. Okay. So Mr. Fuller asked you
25 a series of questions about the paragraphs

1 that are on page 13 and 14, about Gulf Coast
2 Pharmacy.

3 Could you please take a look
4 and just let us know what the years are of
5 the issues that are raised about Gulf Coast
6 Pharmacy in those paragraphs A through H,
7 please.

8 A. Yes, I can.

9 It would be through from -- it
10 states August 12th of 2008 --

11 Q. Just so -- you don't have to
12 read all the specifics dates, if you just
13 want to --

14 A. I won't. It just goes through
15 from 2008 through 2011.

16 Q. Okay. And were you -- so that
17 was all prior to your time as an analyst; is
18 that correct?

19 A. That is correct.

20 Q. So you would not have been the
21 analyst responsible for reviewing any of
22 these orders?

23 A. No, ma'am.

24 Q. Do you have any knowledge as to
25 whether -- what the analyst who -- do you

1 have any knowledge of whether there were
2 threshold events with respect to Gulf Coast
3 Pharmacy?

4 A. I have no idea.

5 Q. Do you have any knowledge if
6 there were threshold events, what the analyst
7 considered in evaluating those orders?

8 A. No, ma'am, I don't.

9 Q. And what does paragraph 31
10 reflect about Cardinal services to Gulf Coast
11 Pharmacy?

12 A. It states that on October 5th
13 of 2011, Cardinal suspended its distributions
14 to Gulf Coast.

15 Q. And that's prior to you coming
16 into any role where you were overseeing the
17 Lakeland distribution center, correct?

18 A. That is correct.

19 Q. Okay. So you don't have any
20 actual information about the Gulf Coast
21 orders in particular or what was done to
22 analyze them or why any actions were taken or
23 not taken on it; is that right?

24 A. That is correct.

25 Q. Would it be the role of an

1 analyst to decide whether or not a contact
2 should be made with the DEA about a
3 particular pharmacy?

4 A. No.

5 Q. Or would that be elevated up
6 the chain from the analyst?

7 A. That would be elevated.

8 Q. Okay. And do you have any
9 knowledge of whether that happened with
10 respect to Gulf Coast Pharmacy?

11 A. I do not.

12 Q. Or any information that would
13 have been considered by those above the
14 analyst in the chain with respect to this
15 pharmacy?

16 A. I have no idea.

17 Q. Okay. And we've been talking
18 about Gulf Coast Pharmacy, but I take it that
19 it's correct that any orders coming out of
20 the Lakeland distribution center, you would
21 not have been reviewing those prior to
22 sometime in 2012 when you came into that
23 analyst role; is that correct?

24 A. That's correct.

25 Q. Okay. And if you look at

1 exhibit -- what was marked as Exhibit 9,
2 which is the order to show cause regarding
3 the Lakeland distribution center in 2007.

4 A. Yes.

5 Q. And Mr. Fuller directed you to
6 a chart that appears on page 3 of the
7 document.

8 A. That's correct.

9 Q. If you just take a look at the
10 dates of the distributions reflected in that
11 chart.

12 A. Yes, it's from 2005 through
13 2007.

14 Q. Would you have had any
15 responsibilities with respect to reviewing
16 orders placed by those pharmacies through
17 Lakeland distribution center in that time
18 frame?

19 A. No, ma'am, I was not even in
20 the department.

21 Q. Do you have any knowledge or
22 information about what -- what information,
23 if any, was considered about those particular
24 orders?

25 A. No, I do not.

1 Q. Okay. Do you have any
2 knowledge or information around what, if any,
3 information was collected in the on-boarding
4 of the customers who are listed in this
5 chart?

6 A. No, I do not.

7 MS. WICHT: Okay. That's all I
8 have. Thank you.

9 REDIRECT EXAMINATION

10 QUESTIONS BY MR. FULLER:

11 Q. Ms. Justus, counsel asked you
12 about time frames and going back to, you
13 know, 2008, 2009, and some of the
14 investigations.

15 You would agree with me that
16 the obligations set forth in the regulations
17 that we looked at -- actually the statutes
18 that were enacted in 1970 and then the
19 regulations enacted in '71 -- would apply for
20 that entire time frame; would you not?

21 MS. WICHT: Object to the form.

22 THE WITNESS: I don't know what
23 the policy was at that time.

24 QUESTIONS BY MR. FULLER:

25 Q. I'm not asking the policy. I'm

1 asking the regulations that you saw that were
2 enacted in 1971.

3 They would still be applicable
4 in the '07 and '08 and '09 and 2010, right?

5 MS. WICHT: Object to the form.

6 THE WITNESS: As far as I would
7 know, yes.

8 QUESTIONS BY MR. FULLER:

9 Q. Okay. You also testified
10 earlier that the diversion issue is
11 everybody's business at Cardinal, right?
12 Everybody has an obligation to help prevent
13 diversion, I think is what you testified to,
14 correct?

15 A. That is correct.

16 Q. And Mr. Barrett's even said
17 that publicly. It's everybody's job.

18 A. That's correct.

19 Q. Not just if you're in this
20 position or if you're in that position.

21 But you have specialized
22 training now, right?

23 MS. WICHT: Object to the form
24 of the question.

25 THE WITNESS: Yes.

1 QUESTIONS BY MR. FULLER:

2 Q. You have senior analyst
3 training?

4 A. Yes.

5 Q. Okay. Now, as it relates to --
6 whether it would be an analyst's job to
7 approve someone calling the DEA, I think you
8 testified that that would be above your pay
9 grade or up the chain?

10 A. That is correct.

11 Q. Whose job would that be?

12 A. During the time frame that I
13 was in the department, it would have been at
14 least at the senior vice president level, so
15 that would have been -- or at the VP level.
16 It would have been Michael Moné. It would
17 have been Mark Hartman. It could have been
18 Gilberto.

19 Q. And the senior vice president
20 level would have been who?

21 A. Would have been Mark Hartman or
22 Gilberto. The vice president role would have
23 been Michael Moné.

24 Q. Okay. And counsel asked you a
25 little bit about Gulf Coast.

1 I want to look at one more
2 thing from Gulf Coast. 2034. It will be
3 Plaintiff's 14.

4 (Cardinal-Justus Exhibit 14
5 marked for identification.)

6 QUESTIONS BY MR. FULLER:

7 Q. If you'll recall when we were
8 reading that declaration, there was reference
9 to an attachment or an exhibit. This is one
10 of those exhibits.

11 Have you ever seen this type
12 of -- not this particular form, but this type
13 of form before?

14 A. Yes.

15 Q. What is this?

16 A. This was -- I believe this to
17 be one of the forms that the pharmacist or
18 whoever was taking care of the threshold
19 events at that point in time would have used
20 as part of their decision.

21 Q. In analyzing a threshold event
22 or a suspicious order?

23 A. I believe that's what this was
24 used for in assisting that, yes.

25 Q. And this pertains to what

1 counsel was questioning you about, Gulf Coast
2 Pharmacy, correct?

3 A. This does, yes.

4 Q. Okay.

5 MR. FULLER: And for the
6 record, it's going to be attached as
7 Plaintiff's Number 14.

8 QUESTIONS BY MR. FULLER:

9 Q. And it includes information as
10 to total prescription sales, total controlled
11 substance sales, the percentages of each as
12 well as the distribution numbers, is that
13 right, historical purchase data?

14 A. It does have historical
15 purchase data, uh-huh.

16 Q. This says it was reviewed by,
17 in the upper right-hand corner, Christopher
18 J. Forst?

19 A. That's correct.

20 Q. I know his name came up
21 earlier. Help me out with who he was.

22 A. He was a pharmacist.

23 Q. Okay. He's one of that group
24 of pharmacists that would do the statistical
25 stuff?

1 MS. WICHT: Object to the form
2 of the question.

3 THE WITNESS: There's
4 statisticians for the statistical.
5 This would be -- he would have been
6 with the pharmacists that looked at
7 this from a pharmacist's background.
8 Would have been -- I don't know what
9 other duties they did at this point in
10 time.

11 QUESTIONS BY MR. FULLER:

12 Q. Okay. No, fair enough.

13 A. Yeah.

14 Q. Fair enough.

15 And this was -- if you review
16 this, this was October 29, 2010, right?

17 A. That's correct.

18 Q. And if you look at the
19 historical purchase data, this pharmacy in
20 April of '10, when it was only ordering
21 31,000 pills, in a, what, six-month time
22 frame it went up to 162,000 pills?

23 That's a pretty big increase;
24 can we agree on that?

25 MS. WICHT: Object to the form

1 of the question.

2 THE WITNESS: It's an increase.

3 QUESTIONS BY MR. FULLER:

4 Q. And what is the conclusion, or
5 the QRA decision, at least, according to this
6 form?

7 A. According to this form, it was
8 a release.

9 Q. Meaning that the pills were
10 shipped, right?

11 A. I don't have that detail.

12 Q. What does released --

13 A. This is not anything that would
14 have been in the system in which I worked.

15 Q. Sure.

16 What does "release order" mean?

17 MS. WICHT: Object to the form
18 of the question.

19 THE WITNESS: It means to
20 release the order.

21 QUESTIONS BY MR. FULLER:

22 Q. Which means to ship the order,
23 correct?

24 MS. WICHT: Object to the form
25 of the question.

1 THE WITNESS: It could, yes.

2 It could.

3 QUESTIONS BY MR. FULLER:

4 Q. I mean, it doesn't mean cancel
5 the order, does it?

6 A. It does not.

7 MR. FULLER: Okay. I don't
8 have anything further.

9 MS. WICHT: Nothing for me.

10 VIDEOGRAPHER: All right. This
11 concludes today's deposition. We're
12 going off record. The time is 5:24.

13 (Deposition concluded at 5:24 p.m.)

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CERTIFICATE

I, CARRIE A. CAMPBELL, Registered
Diplomate Reporter, Certified Realtime
Reporter and Certified Shorthand Reporter, do
hereby certify that prior to the commencement
of the examination, Shirlene Justus was duly
sworn by me to testify to the truth, the
whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the
foregoing is a verbatim transcript of the
testimony as taken stenographically by and
before me at the time, place and on the date
hereinbefore set forth, to the best of my
ability.

I DO FURTHER CERTIFY that I am
neither a relative nor employee nor attorney
nor counsel of any of the parties to this
action, and that I am neither a relative nor
employee of such attorney or counsel, and
that I am not financially interested in the
action.

CARRIE A. CAMPBELL,
NCRA Registered Diplomate Reporter
Certified Realtime Reporter
California Certified Shorthand
Reporter #13921
Missouri Certified Court Reporter #859
Illinois Certified Shorthand Reporter
#084-004229
Texas Certified Shorthand Reporter #9328
Kansas Certified Court Reporter #1715
Notary Public
Dated: July 18, 2018

1 INSTRUCTIONS TO WITNESS

2

3 Please read your deposition over
4 carefully and make any necessary corrections.
5 You should state the reason in the
6 appropriate space on the errata sheet for any
7 corrections that are made.

8 After doing so, please sign the
9 errata sheet and date it. You are signing
10 same subject to the changes you have noted on
11 the errata sheet, which will be attached to
12 your deposition.

13 It is imperative that you return
14 the original errata sheet to the deposing
15 attorney within thirty (30) days of receipt
16 of the deposition transcript by you. If you
17 fail to do so, the deposition transcript may
18 be deemed to be accurate and may be used in
19 court.

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ACKNOWLEDGMENT OF DEPONENT

I, _____, do
hereby certify that I have read the foregoing
pages and that the same is a correct
transcription of the answers given by me to
the questions therein propounded, except for
the corrections or changes in form or
substance, if any, noted in the attached
Errata Sheet.

Shirlene Justus

DATE

Subscribed and sworn to before me this
_____ day of _____, 20 ____.

My commission expires: _____

Notary Public

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ERRATA

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CHANGE/REASON

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LAWYER'S NOTES

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